

KAZAKHSTAN 2020 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Republic of Kazakhstan's government and constitution concentrate power in the presidency. Kassym-Jomart Tokayev became president after June 2019 elections that were marked, according to an observation mission by the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights, by election day violations, including ballot stuffing and falsification of vote counts; restrictions on the freedoms of assembly, expression, and association; and "scant respect for democratic standards" overall. Former president Nursultan Nazarbayev enjoys broad, lifetime legal authority over a range of government functions. 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 August 12, in the country's only national election during the year, the legislatures of oblasts and cities of national significance chose 17 of 49 senators for parliament's upper house in an indirect election tightly controlled by local governors working in coordination with the presidential administration.

The Ministry of Internal Affairs supervises the national police force, which has primary responsibility for internal security. The Committee for National Security also 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, chaired by former president Nazarbayev. Civilian authorities maintained effective control over the security forces. Security forces committed abuses.

Significant human rights issues included: unlawful or arbitrary killing by or on behalf of the government; torture by and on behalf of the government; political prisoners; problems with the independence of the judiciary; restrictions on free expression, the press, and the internet; interference with the rights of peaceful assembly and freedom of association; restrictions on political participation;

KAZAKHSTAN

corruption; trafficking in persons; and restrictions on workers' freedom of association.

The government selectively prosecuted officials who committed abuses, especially in high-profile corruption cases. Nonetheless, corruption remained widespread, and impunity existed for many in positions of authority as well as for those connected to law enforcement entities.

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

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

There were several well-publicized reports the government or its agents committed arbitrary or unlawful killings or beatings that led to deaths. Activists noted that deadly abuse in prisons, particularly abuse carried out by so-called voluntary assistants--prisoners who receive special privileges in exchange for carrying out orders of prison staff, remained frequent.

On October 17, police detained local herdsman Azamat Orazaly and took him to the police station in Makanchi village on suspicion of cattle theft. Later that same day, Orazaly died, allegedly while police tried to beat out a confession of the theft. On October 19, police confirmed that Azamat died in the police office in Makanchi. The investigation led to charges of torture, and three police officers were arrested.

Some human rights organizations also considered the February 24 death of civil society activist Dulat Agadil, while in police custody, an unlawful killing. Police had arrested Agadil in his house near Nur-Sultan on February 24 and placed him in the capital's pretrial detention facility following a contempt of court decision related to insults directed at a judge in a separate case. Early the next morning, police reported Agadil had died from a heart attack. After human rights activists demanded an impartial investigation, medical authorities examined Agadil's body the following day with the participation of two independent doctors, who did not find evidence of forced death, although they did find signs of bruising. On

KAZAKHSTAN

February 29, President Tokayev stated that he had studied the case materials and was confident Agadil died of a heart attack. On May 28, the Nur-Sultan Prosecutor's Office announced it had dropped its investigation into Agadil's death after finding no signs of criminal acts, as Agadil's arrest and detention were in full compliance with the law.

The legal process continued in the killing of a human rights defender from 2019. In May 2019 the body of activist Galy Baktybayev, who was shot with a rifle, was found in the Karaganda region's Atasu village. Baktybayev was a civil activist who raised problems of corruption, embezzlement, and other violations by local government. A special investigation group created by the Minister of Internal Affairs detained four suspects, including one former police officer. The investigation was completed and submitted to court in May, and an ongoing jury trial began on August 17.

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

The law prohibits torture; nevertheless, there were reports that police and prison officials tortured and abused detainees. Human rights activists asserted the domestic legal definition of torture was noncompliant with the definition of torture in the UN Convention against Torture.

The National Preventive Mechanism against Torture (NPM) was established by law as part of the government's Office of the Human Rights Ombudsman. According to public statements by Ombudsman Azimova in September, the number of prisoner complaints about torture and other abuse increased in comparison to 2019. During the first 10 months of the year, her office received 125 complaints about torture and cruel treatment, compared to 84 throughout 2019. The NPM reported that 121 criminal cases were registered from those complaints and 23 individuals were convicted of torture. In 2019 the Prosecutor General's

KAZAKHSTAN

Office reported 136 complaints of torture in the first six months of the year, of which five were forwarded to courts following investigation.

The ombudsman also criticized what she termed “the widely practiced GULAG-style treatment” of prisoners and suggested that the lack of education and monitoring were the reasons for that lingering problem. She called for regular training of the staff of penitentiary institutions and an update of the penitentiary system’s rules to provide for more effective interaction with the NPM to make it impossible for prison staff to conceal incidents of torture.

Cases of prison officers being brought to justice for torture were rare, and officers often received light punishment.

On February 3, the Kapshagay district court convicted seven officers of Zarechniy prison of torture. The court sentenced Deputy Director for Behavioral Correction Arman Shabdenov and Deputy Director for Operations Jexenov to seven years in jail, and the others received sentences ranging from five to six years in jail.

On April 1, Yerbolat Askarov, director of the operations unit of a prison in Shakhtinsk near Karaganda, was sentenced to two-and-a-half years’ probation for torturing prisoners in addition to a three-year ban on work in penitentiary institutions. On January 23, more than 200 prisoners in Uralsk prison RU-170/3 were severely beaten by National Guard soldiers brought in by prison administrators to search for contraband. A prisoner’s relative contacted human rights activists about the incident, and the next day NPM representatives led by a local human rights activist visited the prison and listened to prisoners describe their treatment. Prisoners stated that the soldiers beat prisoners, kept them outdoors in frigid temperatures for three hours with inadequate clothing, destroyed personal items, and verbally abused them. After the raid prison officials did not let prisoners visit the infirmary. NPM representatives collected 99 written complaints, and the Penitentiary Committee and prosecutors promised to investigate all allegations. A similar incident occurred in that same prison a year prior, but no one was held responsible for either incident.

KAZAKHSTAN

Prison and Detention Center Conditions

Prison conditions were generally harsh and sometimes life threatening, and facilities did not meet international health standards. Health problems among prisoners went untreated in many cases, or prison conditions exacerbated them. Prisons faced serious shortages of medical staff.

Physical Conditions: The NPM reported many concerns including poor health and sanitary conditions; poor medical services, including for prisoners suffering from HIV/AIDS, tuberculosis, and diabetes; high risk of torture during search, investigation, and transit to other facilities; lack of feedback from prosecutors on investigation of torture complaints; lack of communication with families; discrimination against prisoners in vulnerable groups, including prisoners with disabilities and prisoners with HIV/AIDS; censorship; and a lack of secure channels for submission of complaints.

The COVID-19 pandemic compounded prisons' poor health and sanitary conditions, particularly in cases where prisoners had added vulnerability to infection. On August 1, Human Rights Ombudsman Azimova reported on social media that the number of complaints about insufficient health care for individuals in police custody and prisoners increased during the country's public-health lockdown.

Activists continued during the lockdown to raise alarm about health conditions in prisons and detention facilities. Human rights defenders and observers criticized authorities for ignoring recommendations of the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, which reiterated the state's responsibility for ensuring those in custody enjoy the same standards of health that are available in the community, and urged all states to reduce prison populations through early, provisional, or temporary release when possible.

On June 1, three men died, and two required intensive care as a result of an alleged poisoning in a Kokshetau detention facility, according to press accounts. Most of those affected were detained for traffic violations. Activists criticized authorities for failure to apply alternatives to incarceration for such minor offenses.

KAZAKHSTAN

There were multiple complaints from prisoners' relatives that prison administrators ignored prisoners' complaints about symptoms clearly consistent with COVID-19. When such complaints reached the public, prison officials denied there were COVID-19 cases among prisoners and reported that prisoners had tested negative for the virus.

Prisoner rights activists expressed concern that authorities used COVID-19 restrictions to block access to information about treatment in prisons. After an order from the Ministry of Internal Affairs, all administrators banned in-person meetings between prisoners and relatives. In order to compensate for the lack of visits, however, administrators of some prisons increased the number of prisoners' telephone calls and allowed prisoners to have online meetings with relatives.

According to Prison Reform International (PRI), although men and women were held separately, and pretrial detainees were held separately from convicted prisoners, during transitions between temporary detention centers, pretrial detention, and prisons, youth often were held with adults.

Abuse occurred in police cells, pretrial detention facilities, and prisons. Observers cited the lack of professional training programs for administrators as the primary cause of mistreatment.

The NPM and members of public monitoring commissions (PMCs) (quasi-independent bodies that also carry out monitoring) reported continuing infrastructure problems in prisons, including unsatisfactory hygiene conditions such as poor plumbing and sewage systems and unsanitary bedding. PMC members reported that some prisoners with disabilities did not have access to showers for months. They also reported shortages of medical staff and insufficient medicine, as well as mobility problems for prisoners with disabilities. In many places the NPM noted restricted connectivity with the outside world and limited access to information regarding prisoner rights. The PRI and NPM reported that there was widespread concern about food and nutrition quality in prisons. Prisoners and former prisoners complained about their provisions and reported that they were served food past its expiration date.

KAZAKHSTAN

The government did not publish statistics on the number of deaths, suicides, or attempted suicides in pretrial detention centers or prisons during the year. PRI and PMC members reported that many suicides and deaths occurred in prisons.

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 or did not hold prison administrators or staff accountable. The NPM's 2018 report emphasized the problem of voluntary assistants who are used to control other prisoners and carry out additional duties.

The law does not allow unapproved religious services, rites, ceremonies, meetings, or missionary activity 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 they 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 is permitted so long as it does not interfere with internal rules. Prayers are 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, may undertake monitoring visits to prisons. Human rights advocates noted that some prisons created administrative barriers to prevent the PMCs from successfully carrying out their mandate, including creating bureaucratic delays, forcing the PMCs to wait for hours to gain access to the facilities, or allowing the PMCs to visit for only a short time. Some advocates said that the PMCs are not effective because the PMCs do not have any enforcement powers, and justice-sector institutions, including prisons, are not truly interested in reform.

Authorities continued pressure on activist Elena Semyonova, the chair of the PMC in Pavlodar. Prison authorities in Almaty region, Taraz, and Kostanay filed seven lawsuits against her on charges of damaging their dignity and honor through dissemination of false information. In July courts issued rulings in favor of authorities and ordered Semyonova to refute her claims publicly on social media

KAZAKHSTAN

and also pay litigation costs. As of September complainants withdrew three lawsuits, and Semyenova lost four litigations.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but such incidents nevertheless occurred. In August the prosecutor general reported to media outlets that prosecutors released 500 unlawfully detained individuals.

Human rights observers reported arbitrary detentions during the COVID-19 quarantine restrictions. The nongovernmental organization (NGO) Kazakhstan International Bureau for Human Rights and Rule of Law reported that Almaty authorities built a tent facility and involuntarily confined all homeless citizens picked up in the city during the COVID-19 lockdown that began in March. Some individuals who live near the facility alleged that, in addition to homeless citizens, others who happened to be on site during police raids were also among those locked up in the facility. The few individuals who managed to escape the police-controlled facility complained about hunger, cold, and brutal beatings. Journalists and human rights observers who tried to verify allegations were denied access to the facility.

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, 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 arrest, the investigator is required to write a 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 of the statement.

The 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 materials of the case to the prosecutor; (2) the prosecutor studies the evidence and takes it to court

KAZAKHSTAN

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 him or her and notify the officer who handles the case and the prosecutor. 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 the authority to deny or grant arrest warrants, judges authorized prosecutorial warrant requests in the vast majority of cases.

The law allows conditional release on bail, although use of bail procedures is limited. Prolonged pretrial detentions remain commonplace. The bail system is designed for persons who commit a criminal offense for the first time or a crime of minor or moderate severity, provided that the penalties for conviction of committing such a crime contain a fine as an alternative penalty. Bail is not available to suspects of grave crimes, crimes that led to death, organized crime, and terrorist or extremist crimes, or to situations in which there is reason to believe the suspect would hinder investigation of the case or would escape if released.

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 concerning 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 for an indigent suspect or defendant when the suspect is a minor, has physical or mental disabilities, or faces

KAZAKHSTAN

serious criminal charges, but public defenders often lacked the necessary experience and training to assist defendants. Defendants are barred from freely choosing their defense counsel if the cases against them involve state secrets. The law allows only lawyers who have special clearance 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 10 days' administrative arrest. During the year authorities detained many who participated in unsanctioned antigovernment rallies, including some who happened to be passing by.

Pretrial Detention: The law allows police to hold a detainee for 48 hours before bringing charges.

Once charged, detainees may be held in pretrial detention for up to two months. Depending on the complexity and severity of the alleged offense, authorities may extend the term for up to 18 months while the investigation takes place. The pretrial detention term may not be longer than the potential sentence for the offense. Upon the completion of the investigation, the investigator puts together an official indictment. The materials of the case are shared with the defendant and then sent to the prosecutor, who has five days to check the materials and forward them to the court.

On June 10, Almaty police arrested the activist Asiya Tulesova for assaulting a policeman during a protest gathering after she knocked the police officer's hat off. The court authorized a two-month arrest, despite the legal stipulation that an individual shall only be placed in police custody if he or she is suspected of a criminal offense punishable by five or more years of imprisonment. (The maximum potential sentence for Tulesova's actions was three years.) The court also denied her bail, despite the risk of increasing her potential exposure to COVID-19.

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.

KAZAKHSTAN

Human rights observers stated that authorities occasionally used pretrial detention to torture, beat, and abuse inmates to extract confessions.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The law spells out a detainee's right to submit a complaint, challenge the justification for detention, or seek pretrial probation as an alternative to arrest. Detainees have 15 days to submit complaints to the administration of the pretrial detention facility or a local court. An investigative judge has 10 days to overturn or uphold the challenged decision.

e. Denial of Fair Public Trial

The law does not provide for an independent judiciary. The executive branch has sharply limited judicial independence. According to the NGO Freedom House's *Nations in Transit 2020* report, the country's judiciary remained heavily dependent upon the executive branch, judges were subject to political influence, and corruption was a problem throughout the judicial system. Prosecutors enjoyed a quasi-judicial role and had the authority to suspend court decisions.

On July 15, the Medeu district court in Almaty sentenced activist Sanavar Zakirova to one year of imprisonment for inflicting harm to another person's health. Zakirova had been ordered by a court to pay restitution to a Nur Otan Party member stemming from a case in November 2019, after she and two other activists had posted criticisms of the party member online. Human rights observers stated that the investigation and court trial of the case were marred with numerous serious irregularities. They also criticized the harsh sentence given to Zakirova, a vocal opponent of the government who had tried to form an opposition political party in March 2019, as an attempt to silence her.

According to Freedom House, corruption was evident at every stage of the judicial process. Although judges were among the most highly paid government employees, lawyers and human rights monitors stated that judges, prosecutors, and other officials solicited bribes in exchange for favorable rulings in many criminal and civil cases.

According to Freedom House, court decisions were often driven by political motives. On May 21, Prosecutor General Gizat Nurdauletov submitted a petition

KAZAKHSTAN

to the Supreme Court claiming that the January 2019 guilty verdict handed down by the Atyrau regional court in the case of former governor Bergey Ryskaliyev and his accomplices should be overturned because of procedural irregularities.

Nurdauletov demanded that a portion of confiscated property be returned to Ryskaliyev and his alleged accomplices. The Supreme Court approved the Prosecutor General's petition. A long list of property and large sums of money in foreign accounts were returned to Ryskaliyev, who had been convicted in absentia in 2019 to 17 years in prison for leading an organized criminal group. Freedom House stated the ruling marred the judiciary's image.

During a January 13 meeting with President Tokayev, Chairman of the Supreme Court Zhakip Asanov reported that 37 judges were dismissed in 2019 for issuance of unlawful decisions, violation of judicial ethics, and failed tests of professional aptitude.

According to the 2019 report of the Supreme Judicial Council, an additional 83 judges were disciplined for violating the law and judicial ethics and for poor performance of official duties, a 40 percent increase from 2018. Three judges were convicted for corruption, and four were under investigation at the time of the report.

Supreme Court Judge Yelena Maxuta told journalists on August 5 that the number of judges dismissed for ineptitude in 2019 was close to the number dismissed during the previous 10 years. She further stated that 10 percent of judgeships were vacant, and one of five district courts (the lowest level of trial courts) lacked a chairperson due to lack of qualified candidates.

On July 29, the Auezov district court in Almaty convicted a former judge of the Bostandyk district court, Elvira Ospanova, for taking an approximately 1.2 million tenge (\$3,000) bribe. Ospanova received four years in prison and a life ban on state service.

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.

KAZAKHSTAN

Trial Procedures

The law provides for the right to a fair trial.

All defendants enjoy a presumption of innocence and by law are protected from self-incrimination. Trials are public except in instances that could compromise state secrets or when necessary to protect the private life or personal family concerns of a citizen.

Jury trials are held by a panel of 10 jurors and one judge and have jurisdiction over crimes punishable by death or life imprisonment, as well as grave crimes such as trafficking and engagement of minors in criminal activity. Activists criticized juries for a bias towards the prosecution as a result of the pressure that judges applied on jurors, experts, and witnesses.

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.

Indigent defendants in criminal cases have the right to counsel and a government-provided attorney. By law a defendant must be represented by an attorney when the defendant is a minor, has mental or physical disabilities, does not speak the language of the court, or faces 10 or more years of imprisonment. The law also provides defendants the rights to be present at their trials, to be heard in court, to be provided with an interpreter if needed, to confront witnesses against them, and to call witnesses for the defense. They have the right to appeal a decision to a higher court. According to observers, prosecutors dominated trials, and defense attorneys played a minor role. Defense attorneys in human rights-related cases said that they experienced harassment from authorities. Attorneys also sometimes complain they and the defendants do not always have adequate time or facilities to prepare.

On the night of July 1, officers of the Anticorruption Agency in Aktau (Mangystau region) detained attorney Karshiga Kushkinov and held him for 14 hours.

Investigator Aset Izbasar forced the attorney to give a confession and threatened to place him under arrest. The investigator also tried to force Kushkinov to bribe a

KAZAKHSTAN

judge of the Aktau city court. Izbasar's supervisor then threatened Kushkinov with arrest if he went public about their actions. Kushkinov contacted human rights defenders and posted messages about the incident on social media, alleging that he was targeted for defending victims of police abuse (specifically in the case of a young man who had to have his kidney removed after being beaten by police).

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

During COVID-19 quarantine restrictions, courts worked remotely. Attorneys complained that during this time, courts made more mistakes and arbitrary decisions than usual and failed to follow procedures and deadlines.

In its September 6 amicus brief in activist Ilyashev's court trial, the Clooney Foundation for Justice stated that Ilyashev's court proceedings, held entirely online through video-conferencing software, violated the defendant's right to a fair trial defense. The amicus brief stated that the defendant and his counsel were "periodically either unable or limited in their ability to participate in the proceedings," were continuously prevented "from making motions, presenting arguments, and questioning witnesses," and that the defendant's right to communicate with counsel was breached. Ilyashev "was only able to speak to his lawyers in a handful of instances, during short breaks in the trial...[and] almost never confidentially," according to the amicus brief.

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 emphasized a confession of guilt over collection of other evidence in building a criminal case against defendants. Courts generally ignored allegations by defendants that officials obtained confessions through torture or duress.

KAZAKHSTAN

Political Prisoners and Detainees

The civil society alliance Tirek maintained a list of approximately 23 individuals it considered detained or imprisoned based on politically motivated charges. These included activist Aron Atabek, land law activist Maks Bokayev, and individuals connected to the banned political party Democratic Choice of Kazakhstan (DCK), which is led by fugitive banker and opposition leader Mukhtar Ablyazov. Additionally, more prisoners were connected to the Koshe Party, also banned and labeled by the government as the successor of the DCK, as well as others connected to Mukhtar Ablyazov. Convicted labor union leader Larisa Kharkova remained subject to restricted movement, unable to leave her home city without permission of authorities. Human rights organizations have access to prisoners through the NPM framework.

Bokayev was sentenced in 2016 to five years in prison for his role in organizing peaceful land reform protests. He was convicted of “instituting social discord,” “disseminating knowingly false information,” and “violating the procedure of organization and holding of meetings, rallies, pickets, street processions and demonstrations.” Although the UN Working Group on Arbitrary Detention concluded that his imprisonment was arbitrary, he remained in jail at year’s end.

Politically Motivated Reprisal against Individuals Located Outside the Country

In March Rustam Ibragimov, the former managing director of BTA Bank, was extradited to the country from the United Arab Emirates. As an alleged associate of Mukhtar Ablyazov, a leading opposition figure residing in France, Ibragimov was allegedly suspected of helping Ablyazov illegally transfer money from BTA Bank to foreign financial institutions. His extradition occurred after joint efforts from Kazakh, Kyrgyz, and Emirati authorities found a passport he had used to be illegal.

On September 29, France’s National Court of Asylum Issues granted political asylum to Mukhtar Ablyazov. In its ruling the court deplored direct pressure from the government of Kazakhstan and “the obvious attempts by outside agents to exert influence on the asylum authorities.”

KAZAKHSTAN

On October 12, an Italian court sentenced six Italian law enforcement officers on abduction charges and one justice of the peace for forgery. According to the Italian authorities, Alma Shalabayeva, the wife of Kazakhstani opposition leader and political refugee Mukhtar Ablyazov, and her six-year-old daughter Alua were abducted by certain Italian officers and officials in the framework of interstate cooperation in criminal matters. After a meeting between Giuseppe Procaccini, then head of cabinet of the Ministry of the Interior, and Andrian Yelemesov, the Kazakhstani ambassador to Italy, Alma and Alua were detained by Italian police in 2013 during a raid on Ablyazov's residence in Rome. While Ablyazov was not home, two days after the raid, Alma and Alua were forced onto a private plane provided by Kazakhstani authorities and flown to Kazakhstan after being charged with alleged passport fraud. Due to mounting international criticism, Alma and Alua were returned to Italy at the end of 2013. The court did not provide a full explanation of the verdict but announced that all the accused received higher sentences than those requested by prosecutors. The head of Rome's Immigration Office, Maurizio Improta, and the head of the police flying squad, Renato Cortese, were convicted and sentenced to five years' imprisonment and disqualification from holding any public office. Similarly, Francesco Stampacchia and Luca Armeni, the officers of Rome's flying squad, were sentenced to five years in prison. Stefano Leoni and Vincenzo Tramma, the officers of Rome's Immigration Office, were given three years and six months and four years, respectively.

Activists and media regularly noted the government targets political opponents, in particular those with business or family connections to Ablyazov, using INTERPOL red notices. On May 14, Ukraine's Supreme Court revoked a lower court's ruling in favor of Kazakhstani journalist and activist Zhanara Akhmet's asylum request. The Supreme Court's decision made possible the extradition to Kazakhstan of Akhmet, who was wanted there for fraud and was an active supporter of Ablyazov, because Ukraine had ratified an extradition agreement with Kazakhstan. The journalist's supporters alleged that Ukraine's Supreme Court decision was a result of cooperation between Ukrainian and Kazakhstani law enforcement agencies. The Open Dialogue Foundation, Freedom House, and Ukrainian and Kazakhstani human rights NGOs called on Ukraine's authorities not to extradite Akhmet.

KAZAKHSTAN

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. During COVID-19 quarantine restrictions, these courts worked remotely, leading to complaints of increased disregard for procedures and deadlines.

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. 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 secrecy of private communications and financial records, as well as on the inviolability of the home. Consistent with previous years, human rights activists reported incidents of alleged surveillance, including KNB officers visiting activists' and their families' homes for "unofficial" conversations regarding suspect activities, wiretapping and recording of telephone conversations, and videos of private meetings being posted on social media.

Courts may hear an appeal of a prosecutor's decision but may not issue an immediate injunction to cease an infringement. The law allows wiretapping in medium, urgent, and grave cases.

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

On June 25, President Tokayev signed into law amendments on the regulation of digital technologies. Human rights defenders expressed concern the amendments were adopted without any public dialogue or explanation on the part of the

KAZAKHSTAN

government and that some portions of the amendments were too broad and could be used to infringe on privacy rights and freedom of speech. According to critics, the law did not firmly provide for protection of personally identifiable data or access to such data, and lacked sufficient mechanisms for oversight of the national system. Additionally, it was unclear what the limits and purposes were for the use of biometric data and video monitoring. Under the law the agency authorized to protect personal data is a part of the Ministry of Digital Development, Innovations, and Aerospace Industry. Those who saw the amendments as insufficient pointed to the data breach in June 2019, when the personal data of 11 million citizens were leaked by the Central Election Commission. Critics said that the lack of proper oversight was highlighted when the Ministry of Internal Affairs announced in January that it had dropped its investigation into the incident, citing a lack of evidence that a crime had been committed.

On December 5, the government announced a cybersecurity drill in which local internet service providers would block residents from accessing foreign sites unless they had a certificate of authority (CA) issued by the government and installed on their devices. The CA allowed a “man-in-the-middle” function that intercepted and decrypted hypertext transfer protocol secure traffic and allowed security forces full access to online activity. While users were able to access most foreign-hosted sites, access was blocked to sites like Google, Twitter, YouTube, Facebook, Instagram, and Netflix, unless they had the certificate installed. The government-mandated CA was rejected by foreign-hosted sites due to security and privacy concerns. Officials claimed the exercise was being carried out to protect government agencies, telecoms, and private companies, and that increased use of the internet during COVID-19 and the threat of cyberattacks necessitated the actions. Previously, officials had urged adoption of a similar CA in August 2019 but withdrew it after significant public outcry. On December 7, the KNB announced that the certificate rollout was simply a test that had been completed.

Section 2. Respect for Civil Liberties, Including

a. Freedom of Expression, Including for the Press

While the constitution provides for freedom of speech and of the press, the government limited freedom of expression and exerted influence on media through

KAZAKHSTAN

a variety of means, including detention, imprisonment, criminal and administrative charges, law, harassment, licensing regulations, and internet restrictions.

After her 2019 visit to the country, the UN special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionualla Ni Aolain, expressed deep concern at the use of counterterrorism and extremism laws to target, marginalize, and criminalize the work of civil society. “Nonviolent criticism of State policies can effectively constitute a criminal offense,” she wrote, “as the provisions on extremism and terrorism have been applied to criminalize the peaceful exercise of freedom of expression and of thought, which is incompatible with a society governed by rule of law and abiding by human rights principles and obligations.”

Media activists raised concerns about the wide use of the legal provision imposing liability for dissemination of false information. They highlighted its use to pressure or silence journalists and civil society activists during the COVID-19 pandemic.

On April 17, authorities arrested and charged activist Alnur Ilyashev for dissemination of false information during a state of emergency. Police stated that Ilyashev’s posts on Facebook critical of the Nur Otan Party and its leader, First President Nazarbayev, contained false information and presented a danger to public order. On June 22, after holding Ilyashev in a pretrial detention facility for more than two months, the Medeu district court in Almaty found him guilty and sentenced him to three years of probation. The court also imposed on Ilyashev a five-year ban on public activity, 100 hours per year of compulsory work during his probation, and a fine of approximately 54,000 tenge (\$130). On September 15, Ilyashev appealed the court ruling but lost the case.

Freedom of Speech: The government limited individual ability to criticize the country’s leadership, and regional leaders attempted to limit criticism of their actions in local media. The law prohibits insulting the first president, the sitting president, or their families, with penalties up to five years’ imprisonment, and penalizes “intentionally spreading false information” with fines of up to 12.63 million tenge (\$32,800) and imprisonment for up to five years.

KAZAKHSTAN

On February 6, the Mangistau regional court of appeals upheld the Munailinski district court's verdict and sentence of local activist, blogger, and vocal political critic Zhambyl Kobeisinov to six months of incarceration for libel. The case was initiated by the local police chief, who sued Kobeisinov and his wife for defaming him on Kobeisinov's YouTube channel.

On April 13, the KNB in Karaganda arrested Arman Hasenov on charges of insulting First President Nazarbayev with the posting of a video in which he criticized Nazarbayev. On April 30, the Kazybek Bi district court in Karaganda convicted Hasenov and sentenced him to three years of probation, 100 hours a year of compulsory labor, and an administrative fine of 41,670 tenge (\$100).

Almat Zhumagulov and Kenzhebek Abishev were sentenced in 2018 to eight and seven years' imprisonment, respectively, for advocating terrorism. Supporters and human rights advocates called the case against them politically motivated and asserted that the video of masked figures calling for jihad that served as the primary evidence for their convictions was fabricated by the government.

Zhumagulov was a supporter of the banned DCK opposition organization.

Abishev, who denied any connection to the DCK, was an advocate for land reform and other political matters. On April 29, a court in Kapshagay granted Kenzhebek Abishev's request of early release by replacing the remaining time of his sentence with probation. Prosecutors challenged this decision, and on July 8, the Almaty regional court of appeals overturned the Kapshagay court's decision to release Abishev. The Almaty regional court also upheld on November 24 a Kapshagay district court decision of October 5 to deny a subsequent request by Abishev for early release. Separately, on July 1, the Kapshagay city court declined Almat Zhumagulov's request for early release.

Freedom of Press and Media, Including Online Media: 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 media coverage are significant problems.

Companies allegedly controlled by members of First President Nazarbayev's family or associates owned many of the broadcast media outlets that the

KAZAKHSTAN

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 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 media broadcasting does not have to meet this requirement.

Violence and Harassment: Independent journalists and those working in opposition media or covering stories related to corruption and rallies or demonstrations reported harassment and intimidation by government officials and private actors.

On March 16, *101TV.kz* YouTube channel journalist Botagoz Omarova went to the Eurasia Building Company in Karaganda to submit a formal information request for the investigative journalism report she was preparing on the company's reportedly poor performance. While waiting for a representative to receive her letter, Omarova was attacked by a guard, who dragged her out of the building, assaulted her, and seized her smartphone. Police are reviewing her complaint.

On April 11, KTK TV reporter Beken Alirakhimov and cameraman Manas Sharipov were detained by police on the premises of the Atyrau regional hospital. They were recording interviews with a group of doctors and nurses who spoke about difficulties they faced during the COVID-19 emergency situation. The journalists were taken to a police station where they were forced to submit a written statement explaining the incident. They then were placed under quarantine because they had contacted doctors who could potentially have been infected.

Human rights activists criticized the country's chief health officer Aizhan Yesmagambetova's July decision to ban taking photos and videos in hospitals.

KAZAKHSTAN

Yesmagambetova explained the restrictions were necessary to protect the privacy of patients and to protect medical workers from unwarranted pressure. Media watchdog Adil Soz stated that by law the chief health officer does not have the power to restrict media freedom. On social media, activists said the ban was intended to restrict information about a general lack of personal protective equipment and other health-care supplies. In its analytical report entitled, *Freedom of Speech in Conditions of the Emergency Situation and Quarantine*, Adil Soz stated that “the freedom of expression, of obtaining and dissemination of information was unreasonably restricted” during the emergency situation, and the constitutional guarantees of those rights were violated. Authorities did not provide full and accurate information about the rationale and adequacy of the quarantine restrictions.

Censorship or Content Restrictions: The law enables the government to restrict media content through amendments that prohibit undermining state security or advocating class, social, race, 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.

Journalists and media outlets exercised self-censorship to avoid pressure by the government. 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 them to provide their print, audio, and video information to authorities 24 hours before issuance or broadcasting for approval. Political parties and public associations may be suspended or closed should 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 temporarily sound-enhancing equipment.

In May Irina Volkova, a reporter of the government-controlled *Zvezda Priirtyshia* newspaper in Pavlodar, requested information from the regional education department as part of her work on an article she was writing for a part-time job at another newspaper. The reporter requested information about the local boarding

KAZAKHSTAN

school for children with mental disabilities. The managers of *Zvezda Priirtyshia* pressured her to check all her requests with her supervisor and not to pose controversial questions. She was told that the restrictions also applied to her work for other media outlets.

By law internet resources, including social media, are classified as forms of mass media and governed by the same rules and regulations. Authorities continued to charge bloggers and social media users with criminal violations due to their online posts.

On May 15, the Petropavlovsk city court convicted blogger Azamat Baikenov for participation in the banned DCK. The prosecutors presented Baikenov's posts in social media and messengers as evidence of Baikenov's participation in the DCK based on the conclusions of experts who were contracted by investigators. These contracted experts found that Baikenov's posts "formed Kazakhstani citizens' negative attitude to the authorities and encouraged them to take actions aimed at changing the government." The defendant argued that he was not an extremist and not a single fact of his affiliation with the DCK or propaganda of its ideas was proved. He also criticized the judge for not examining materials objectively and for merely supporting the prosecutor. The judge sentenced Baikenov to one year of probation and payment of an administrative fine of 27,000 tenge (\$65).

On April 6, Bagdat Baktybayev, an activist in Zhambyl province, was sentenced to 10-days administrative arrest for violation of public order during the emergency situation. According to the court verdict, Baktybayev was found guilty for livestreaming long lines of individuals at the local post office where they were submitting documents for a social allowance that the government paid to those who lost incomes because of the COVID-19 lockdown. He made loud comments, audible on the livestream, expressing dissatisfaction with how the government worked.

Libel/Slander Laws: On June 27, the president signed amendments into legislation that removed liability for libel from the law. Human rights activists and observers welcomed the decriminalization of libel but remained concerned that the law continues to impose serious punishment for libel. Several articles in the law remained that could also be applied against individuals insulting officials. These

KAZAKHSTAN

included the following: “Public insult or other infringement on the honor and dignity of the First President,” “Infringement on the honor and dignity of the President,” “Infringement on the honor and dignity of a Member of Parliament,” “Insulting a representative of authority,” “Libel in regard to a judge, juror, investigator, expert, court bailiff,” and “Dissemination of knowingly false information.”

During the COVID-19 pandemic, there were multiple complaints that authorities used the legal provision on the spreading of false information to put pressure on journalists and civil society activists.

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 feared these provisions would strengthen 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 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.

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 also requires owners of communication networks and 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,” terms that international legal experts noted the government did not clearly define. As part of the president’s reform agenda, the government in June enacted amendments to the criminal code’s Article 174, “Incitement of Social, Ethnic, Tribal, Racial and Religious Discord.” Many observers criticized those amendments as insignificant. The term “incitement” was replaced with “inflaming,” and new types of punishment for violation of article

KAZAKHSTAN

174 were added. Some amendments were made in the law on money laundering and financing of terrorism to mitigate punishment for persons who were convicted under article 174. These included changes that made more convicts eligible to be removed from the list of those who were designated as terrorists or as supporting terrorism. Another provision in the amendment was the ability for former convicts to seek access to limited banking operations for themselves and their family members. Provisions were also included to allow former convicts to have access to more types of previously proscribed income, such as annual leave compensation and travel expenses.

The government subjected to intimidation media outlets that criticized the president, the first president, and their families; such intimidation included law enforcement actions and civil suits. Although these actions continued to have a chilling effect on media outlets, some criticism of government policies continued. Incidents of local government pressure on media continued.

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 majority state-owned Kazakh Telecom. Nevertheless, 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, which 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 .kz internet domains. Authorities may suspend or revoke registration for locating 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

KAZAKHSTAN

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. Bloggers reported anecdotally their sites were periodically blocked, as did the publishers of independent news sites.

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

Observers continued to rate the country as a “not free” country that practices disruption of mobile internet connections and throttles access to social media. During protest actions access to internet was often blocked to eliminate the potential to livestream and share live updates from the events. Authorities also blocked access to some independent websites.

On May 16, authorities blocked *kuresker.org*, which reported on the repression of activists and abuse of prisoners' rights. *Kuresker.org* is not included in the government's official list of websites that are blocked based on court decisions. In response to requests for an explanation of the blocking of *kuresker.org*, authorities denied involvement.

The website *panorama.pub* was blocked on July 3 after it posted a news story (which appeared to be satire because the website is satirical) that the country was developing a COVID-19 antitoxin serum derived from antibodies extracted from First President Nazarbayev's blood, claiming that he had recovered from the disease. The Ministry of Information and Social Development rebuffed the news as fake and warned about liability for the dissemination of false information. The ministry stated that relevant agencies were examining the post and taking measures to stop its further dissemination.

KAZAKHSTAN

International observers remained concerned about authorities' pressure on journalists and bloggers. In April Jeanne Cavelier, the head of Reporters Without Borders' Eastern Europe and Central Asia desk, said the government was harassing journalists and bloggers who strayed from the official line on the COVID-19 pandemic, on the pretext of forestalling panic, and that this exploitation of the state of emergency harmed press freedom in the country.

Government surveillance of the internet was prevalent. According to Freedom House's report, "the government centralizes internet infrastructure in a way that facilitates control of content and surveillance." Authorities, both national and local, monitored internet traffic and online communications. The report stated, "activists using social media were occasionally intercepted or punished, sometimes preemptively, by authorities who had prior knowledge of their planned activities."

On February 13, the Almaty city court rejected the appeal of Aset Abishev, who was sentenced in 2018 to four years' imprisonment for supporting an extremist organization on the basis of Facebook posts he wrote or shared in support of the banned DCK opposition movement. Media reported that Abishev told the court he did not believe it was a crime to express opinions critical of the government. He said, "If the desire for teachers to receive a decent salary or for children to study and be fed for free in schools is extremism, then I am guilty. But I have not committed any illegal or violent actions." On June 5, the Kapshagay city court declined Abishev's request for early release on probation.

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 first president, president, and their families, also applied to academics. Many academics practiced self-censorship.

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The law provides for limited freedom of assembly, but there were significant restrictions on this right. On May 25, President Tokayev signed the law on

KAZAKHSTAN

peaceful assembly in the country. The government praised it as a step forward in the liberalization of the country's legislation. Opponents criticized it as restrictive and falling short of international standards for the freedom of peaceful assembly. Serious restrictions remained. Organizers must submit advance notification to the local government and wait for its response. The law states all gatherings except single-person pickets may only be held in areas designated by authorities, spontaneous gatherings are banned, and foreigners and stateless persons are denied the right to peaceful assembly.

Two opposition groups--the Democratic Party and the DCK--made separate calls to their supporters to rally on June 6. Despite authorities' warnings against mass gatherings during the pandemic and police blocking roads that led to the venues of rallies, protesters in several cities demanded release of political prisoners, debt forgiveness, a ban on the sale of land to foreigners, and freedom of peaceful assembly. Police stated that 53 protesters were detained, seven of whom were punished by administrative fines, one protester was given a reprimand, and the rest were released after receiving an explanation of the law. Activists claimed that hundreds of protesters were detained by police, with some placed in jail and fined the day of the protest and others arrested afterwards.

On September 13, large peaceful protests were held in six cities after Democratic Party leaders prenotified local authorities in 12 cities of the planned protests. Protesters were allowed to gather and were only observed by police in most cities. Party leaders said that small groups of supporters were reportedly held in administrative detention before and then released just after the protests in some cities.

On September 25, the DCK organized small protests that were met by an energetic law enforcement response. Video on social media showed peaceful DCK protesters being arrested and carried away physically by large units of security forces. Social media posts and news sources indicated at least 43 persons were detained temporarily in connection with the September 25 event.

KAZAKHSTAN

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 ultimately 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.

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, Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights).

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, Political Parties and Political Participation, and 7.a., Freedom of Association and the Right to Collective Bargaining).

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 information submitted 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 fines up to 63,125 tenge (\$164) or suspension for three months if the violation is not rectified or is repeated within one year. In extreme cases criminal penalties are possible, which may lead to a large fine, suspension, or closure of the organization.

KAZAKHSTAN

The law prohibits illegal interference by members of public associations in the activities of the government, with a fine of up to 404,000 tenge (\$1,050) or imprisonment for up to 40 days. If committed by the leader of the organization, the fine may be up to 505,000 tenge (\$1,310) or imprisonment for no more than 50 days. The law did not clearly define “illegal interference.”

By law a public association, along with its leaders and members, may face fines for performing activities outside its charter. The law was not clear regarding the delineation between actions an NGO member may take in his or her private capacity versus as part of an organization.

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

In November a group of 13 NGOs that receive foreign funds reported heightened scrutiny by tax authorities, which some of the NGOs stated was likely motivated by the NGOs’ planned activities around parliamentary elections on January 10, 2021. The NGOs reportedly received notifications from tax authorities about discrepancies in their 2017-18 foreign grants reports, which the NGOs claimed were typographical errors and minor technical inaccuracies. The penalties the tax authorities proposed, administrative fines of 555,600 tenge (\$1,300) and suspension of activities, were not commensurate with the alleged errors. None of the NGOs was accused of evading taxes, inappropriate spending of funds, or other unlawful tax-related actions.

c. Freedom of Religion

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

KAZAKHSTAN

d. Freedom of Movement

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

In-country Movement: The government required foreigners who remained in the country for more than five days to register with migration police. Foreigners entering the country had to register at certain border posts or airports where they entered. Some foreigners experienced problems traveling in regions outside their registration area. The government's *Concept on Improving Migration Policy* report covers internal migration, repatriation of ethnic Kazakh returnees, and external labor migration. In 2017 the government amended the rules for migrants entering the country so that migrants from Eurasian Economic Union countries may stay up to 90 days. There is a registration exemption for families of legal migrant workers for a 30-day period after the worker starts employment. The government has broad authority to deport those who violate the regulations.

Since 2011 the government has not reported the number of foreigners deported for gross violation of visitor rules. Individuals facing deportation may request asylum if they fear persecution in their home country. The government required persons who were suspects in criminal investigations to sign statements they would not leave their city of residence.

Authorities required foreigners to obtain prior permission to travel to certain border areas adjoining China and cities in close proximity to military installations. The government continued to declare particular areas closed to foreigners due to their proximity to military bases and the space launch center at Baikonur.

A state of emergency was declared by the president from March 16 to May 11 in order to slow the spread of COVID-19. The government set stringent restrictions on the freedom of movement. Movement within cities and towns was restricted, and checkpoints were established to control the flow of traffic into and out of cities, where most of the early virus cases occurred. Special permission was granted to essential workers to pass the checkpoints. Many measures were implemented with short notice. All flights were stopped initially, and then were

KAZAKHSTAN

gradually allowed to resume, as the state of emergency ended and restrictions were gradually eased. Citizens' mobility within cities was also restricted and required advance permission, but information about who had been granted permission was often incomplete, which initially limited mobility even for those with permission.

During the most stringent lockdown period, individuals were allowed to leave home only to go to grocery stores or pharmacies within 1.2 miles of their homes. All playgrounds were shut down. Children could not be outdoors without parents, and parks were closed. In localized cases authorities locked down whole apartment buildings if one tenant tested positive for COVID-19. In several extreme cases, local authorities welded shut entrance doors to the buildings. Police cordons surrounded the buildings. Residents were required to remain in their homes, often without sufficient food and other essential supplies. Human Rights Commissioner Elvira Azimova spoke up against locks put on apartment buildings. She stated that she believed it was enough to put fences and police cordons around buildings. Subsequent government responses to COVID-19 outbreaks in specific regions were less severe, but the government continued to employ time-limited travel restrictions and roadblocks to limit the spread of COVID-19.

The COVID-19 pandemic also had severe impacts on labor migrants. During the state of emergency period, many lost jobs or were forced to take unpaid leave. As a result, many could not afford housing, health services, or food. Migrants remained ineligible to seek government support, and they could not return to their home countries because air flights and railways stopped and borders were closed. Human rights activists reported that courts continued to issue rulings on deportation of migrants who did not have the relevant work permissions.

In May the government adopted a resolution to allow through January 5, 2021, the exit, without administrative penalties, of foreign citizens with expired or expiring identification documents or permits (visas, registration cards, work or residence permits). The government, with the assistance of local NGOs, negotiated with neighboring governments for the return of migrant laborers to their home countries. Migration Service Centers in all regions provided services for migrant laborers at one-stop express windows. As of November, according to government statistics, 149,217 foreign citizens had returned home from the country (including 30,801 Russian citizens), and the government had legalized the status of 146,970

KAZAKHSTAN

foreign citizens (of whom 94,405 received temporary work permits, 1,966 received authorization for family reunion, 872 to study, 148 to receive medical care, and 6,501 for visa extensions).

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

Exile: The law does not prohibit forced exile if authorized by an appropriate government agency or through a court ruling.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. 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 internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: There were 510 recognized refugees in the country as of July. Both the number of refugee applications and the approval rate by the government declined considerably compared with prior years.

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 legal partners may appeal to the government and intervene on behalf of

KAZAKHSTAN

individuals facing deportation. The law, several implementing regulations, and bylaws regulate the granting of asylum and refugee status.

The Refugee Status Determination outlines procedures and access to government services, including the right to be legally registered and issued official documents. The Department of Migration Service of the Ministry of Internal Affairs conducts status determination procedures. Any individual located within the country who seeks asylum in the country has access to the asylum procedure. 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. A person who crossed the border illegally may be prosecuted in criminal court, and subsequently may be viewed as a person with criminal potential, a negative factor in the asylum decision.

On August 17, authorities extradited Uzbek opposition activist Hurram Berdiyev to Uzbekistan, which had listed him as wanted for human trafficking in 2013. Activists alleged that the charges were fabricated and Berdiyev was persecuted for his opposition political activity as a member of the opposition Erk party. In February, following the request of Uzbek colleagues, police in Sairam arrested Berdiyev. When he was in custody, Berdiyev's lawyers helped him apply for refugee status, but the government denied his application.

In October the government granted asylum to the following four ethnic Kazakhs who had fled China: Kaster Musakhan, Murager Alimuly, Malik Bashagar, and Kaisha Khan. On January 21, the Zaisan city court in East Kazakhstan province had sentenced both Musakhan and Alimuly to one year of imprisonment for illegally crossing into the country from China. Credited with time served in pretrial detention, Musakhan and Alimuly had been released from prison on June 22, pending the completion of their asylum application process.

A legislative framework does not exist to manage the movement of asylum seekers between the country's borders and authorities in other areas. There are no reception facilities for asylum seekers. The government does not provide accommodation, allowances, or any social benefits to asylum seekers. The law

KAZAKHSTAN

does not provide for differentiated procedures for persons with specific needs, such as separated children and persons with disabilities. Asylum seekers and refugees with specific needs are not entitled to financial assistance. There are no guidelines for handling sensitive cases, including lesbian, gay, bisexual, transgender, and intersex (LGBTI) cases.

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 on the informal economy.

Access to Basic Services: All refugees recognized by the government receive a refugee certificate that allows them to stay in the country legally. The majority of refugees have been residing in the country for many years. Their status as “temporarily residing aliens” hinders their access to the full range of rights stipulated in the 1951 Convention and the law. Refugee status lasts for one year and is subject to annual renewal. In 2018 it became possible for refugees to apply for permanent residency if they have a valid passport. Some refugees received permanent residency in 2018 and 2019, and they are eligible to become Kazakhstani citizens after five years of residency. The law also lacked provisions on treatment of asylum seekers and refugees with specific needs. Refugees have access to education and health care on the same basis as citizens, but they have no access to social benefits or allowances.

UNHCR reported cordial relations with the government in assisting refugees and asylum seekers.

The government was generally tolerant in its treatment of local refugee populations.

Consistent with the Minsk Convention on Migration within the Commonwealth of Independent States (CIS), the government did not recognize Chechens as refugees. Chechens are eligible for temporary legal resident status for up to 180 days, as are any other CIS citizens. This temporary registration is renewable, but local migration officials may exercise discretion over the renewal process.

KAZAKHSTAN

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

g. Stateless Persons

The constitution and law provide avenues to deal with those considered stateless, and the government generally took seriously its obligation to ease the burden of statelessness within the country. The country contributes to statelessness because application for Kazakhstani citizenship requires renunciation of citizenship of the country of origin, with no stipulation that Kazakhstani citizenship would be granted. As of July 1, a total of 7,757 persons were officially registered by the government as stateless, according to UNHCR. The majority of individuals residing in the country with undetermined nationality, with de facto statelessness, or at heightened risk of statelessness, are primarily those who have no identity documents, have invalid identity documents from a neighboring CIS country, or are 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 has been deprived of citizenship under this law. Instead, during the year the government repatriated hundreds of citizens who joined international terrorist organizations and their families, prosecuting the fighters in criminal court and providing social services to family members.

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 is documented, and they are considered as having permanent residency, which is 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 legal procedure 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

KAZAKHSTAN

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 summary the law does not provide a simplified naturalization procedure for stateless persons. Existing legislation prevents children of parents without identity documents from obtaining birth certificates, which hindered their 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 challenges when concluding 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 migration, 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.

Although constitutional amendments in 2017 increased legislative and executive branch authority in some spheres, the constitution concentrates power in the presidency itself. 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. A presidential decree signed October 9 requires most of these appointments to be

KAZAKHSTAN

made in consultation with the chairman of the Security Council, a position that was granted in 2018 to then president Nazarbayev for his lifetime.

The 2018 law on the first president--the “Leader of the Nation” law--establishes then president Nazarbayev as chair of the Kazakhstan People’s Assembly and of the Security Council for life, grants him lifetime membership on the Constitutional Council, allows him “to address the people of Kazakhstan at any time,” and stipulates that all “initiatives on the country’s development” must be coordinated through him.

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. Parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president’s consent.

Elections and Political Participation

Recent Elections: President Nursultan Nazarbayev stepped down in March 2019 and under the constitution the presidency immediately passed to the chairman of the Senate, Kassym-Jomart Tokayev. Thereafter, the government conducted presidential elections in June 2019. Out of seven presidential candidates, Tokayev won with 70.96 percent of the vote. According to an Organization for Security and Cooperation in Europe (OSCE) observer mission’s report, the election “offered an important moment for potential political reforms, but it was tarnished by clear violations of fundamental freedoms as well as pressure on critical voices.” The report cited a number of violations, such as ballot-box stuffing and problems with vote counting, including cases of deliberate falsification. Other problems included lack of transparency, such as by not releasing election results by polling station, and violations of the rights of assembly, expression, and association. The report also noted the widespread detention of peaceful protesters on election day in major cities. Overall, the conduct of the election showed “scant respect for democratic standards.”

The OSCE report further observed that the problems went beyond election day itself. According to the final report, in recent years some opposition parties have

KAZAKHSTAN

either been banned or marginalized through restrictive legislation or criminal prosecution, and the ability of new political parties to register was significantly restricted by the Law on Political Parties. Moreover, the legal framework for candidate eligibility was highly restrictive. The OSCE report also noted that 2017 constitutional and legislative amendments abolished self-nomination and introduced further eligibility requirements that significantly reduced the candidate pool, with requirements for education, residency, and experience in the civil service or elected government office.

The most recent elections to the Mazhilis, the lower house of parliament, took place in 2016. The ruling Nur Otan Party won 84 seats, Ak Zhol won seven seats, and the Communist People's Party won seven seats. An observer mission from the OSCE noted irregularities and limitations on civil and political rights.

The country held Senate elections on August 12, 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, and the majority of the newly elected senators were affiliated with the local authorities.

In June 2018 the government amended the election law. One change reduced the independence of members of maslikhats. Previously, citizens could self-nominate and vote for individual candidates running in elections for the maslikhats. Under the amended law, only parties may select candidates for party lists, citizens vote for parties, and the parties then choose whom from their list would join the maslikhat.

Another election law change affected public opinion surveys ahead of elections. According to the amendments, only legal entities may conduct public opinion surveys about elections after notifying the Central Election Commission (CEC). Such entities must be legally registered and have at least five years' experience in conducting public opinion surveys. Violation of the law leads to a fine of 37,875 tenge (\$98) for an individual and 75,750 tenge (\$197) for an organization. The law prohibits publishing, within five days of elections, election forecasts and other research related to elections or support for particular candidates or political parties.

KAZAKHSTAN

Political Parties and Political Participation: As part of the set of amendments in the political parties law signed by President Tokayev on May 25, the registration threshold was reduced from 40,000 to 20,000 members, with a minimum of 600 members from each region.

By law if authorities challenge the application by alleging irregular signatures, the registration process may continue only if the total number of eligible signatures exceeds the minimum number required. The law prohibits parties established on an ethnic, gender, or religious basis. The law also prohibits members of the armed forces, employees of law enforcement and other national security organizations, and judges from participating in political parties.

There were six registered political parties: Adal (formerly Birlik), Ak Zhol, Kazakhstan People's Party (formerly the Communist People's Party), National Social Democratic Party, Nur Otan Party, and People's Patriotic Party "Auyl." All parties generally did not oppose Nur Otan policies.

In 2018 the Yesil district court in Astana (now Nur-Sultan) banned, as an extremist organization, the DCK movement, which was organized by the fugitive banker and opposition figure, Mukhtar Ablyazov. The movement's declared goal was the peaceful change of the country's authoritarian regime into a parliamentary republic. The court ruled that the DCK incited social discord, created a negative image of state authorities, and provoked protest.

On February 8, a group of activists announced that they were founding the Koshe Party ("Street Party"), with the stated goal to change the country into a parliamentary republic, release all political prisoners, and combat corruption. On May 19, the Yesil district court in Nur-Sultan banned the Koshe Party as a successor organization of the DCK. The party was not represented at the court hearing. Human rights observers criticized the lack of fair court proceedings as a violation of the freedom of association.

Participation of Women and Members of Minority Groups: On May 25, President Tokayev signed into law amendments on national elections and political parties that mandate a combined 30 percent quota for women and youth in the lists of candidates of political parties running in elections. Youth are defined as those

KAZAKHSTAN

between the ages of 14 and 29. The amendments do not, however, specify the same ratio among the actually elected members of parliament and the maslikhats.

Traditional attitudes sometimes hindered women from holding high office or playing active roles in political life, although there were no legal restrictions on the participation of women or minorities in politics.

Section 4. Corruption and Lack of Transparency in Government

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 personal relationships with government officials were established.

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. According to the Anticorruption Agency, the largest number of officials held liable for corruption in the first six months were in police, finance and agriculture areas. They also reported a three-fold increase in the number of corruption cases among military officers.

The Ministry of Internal Affairs, Agency on Combatting Corruption, KNB, and economic investigations service of the Finance Ministry are responsible for combating corruption. The KNB investigates corruption crimes committed by officers of the special agencies, anticorruption bureau, and military. During the first nine months of the year, the government recorded 2,140 corruption crimes across all agencies. In addition to administrative and disciplinary penalties, 195 officials had cases submitted to the courts and were held criminally liable. The most frequent crimes were bribery, abuse of power, and embezzlement of property. The government charged 442 civil servants with corruption crimes.

On May 27, a court found the governor of Pavlodar province, Bulat Bakauov, guilty of abuse of power. As a result of a plea bargain reached by the defendant and prosecutors, the court sentenced Bakauov to 3.5 years of restricted freedom of

KAZAKHSTAN

movement (probation) and to a life ban on government service. The court did not rule on confiscation of any property because it did not find any property obtained by unlawful means.

Financial Disclosure: The law requires government officials, applicants for government positions, and those released from government service to declare their income and assets in the country and abroad to tax authorities annually. The same requirement applies to their spouses, dependents, and adult children. Similar regulations exist for members of parliament and judges. Tax declarations are not available to the public. The law imposes administrative penalties for noncompliance with the requirements.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A number of domestic and international human rights groups operated with some freedom to investigate and publish their findings on human rights cases, although some restrictions on human rights NGO activities remained. 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 about their views.

In recent years the government refused three applications from Atajurt, an advocacy organization for the rights of ethnic Kazakhs in China, to register. Each time, the stated basis for refusal was errors in Atajurt's paperwork. The government continued to pressure Atajurt leader Serikzhan Bilash, and on August 18, the court in Almaty found him guilty of participation in an unregistered organization and punished him with an administrative fine of 138,900 tenge (\$330). Bilash denied the charges and called them unreasonable and unlawful. Bilash previously had signed a plea agreement in 2019 that banned him from political activism in connection with his criminal case for incitement of discord. In December international media reported that Bilash fled the country in September and was living in Turkey.

KAZAKHSTAN

The International Legal Initiative, Kazakhstan International Bureau for Human Rights and Rule of Law, Kadyr Kassiyet, the Legal Media Center, and Foundation on Parliamentary Development were among the most visibly active human rights NGOs. Some NGOs faced occasional difficulties in acquiring office space and technical facilities. Government leaders participated--and regularly included NGOs--in roundtables and other public events on democracy and human rights.

The United Nations or Other International Bodies: The government invited UN special rapporteurs to visit the country and meet with NGOs dealing with human rights. The government generally did not prevent other international NGOs and multilateral institutions dealing with human rights from visiting the country and meeting with local human rights groups and government officials. 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 fulfillment of international human rights conventions. The commission does not have legal authority to remedy human rights violations or implement its recommendations.

The Commissioner on Human Rights (Ombudsman) is elected by the Senate upon the president's recommendation for a five-year term. The ombudsman reviews and investigates complaints about violations of human rights by officials and organizations. The ombudsman issues recommendations and publishes reports on human rights, and also serves as the chair of the Coordinating Council of the National Preventive Mechanism against Torture.

The ombudsman did not have the 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 s/he may investigate complaints against individuals. The Ombudsman's Office has the authority to appeal to the president, cabinet, or parliament to resolve citizens' complaints; cooperate with international human rights organizations and NGOs;

KAZAKHSTAN

meet with government officials concerning human rights abuses; visit certain facilities, such as military units and prisons; and publicize in media 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 indicated that the Ombudsman's Office and the human rights commission were unable to stop human rights abuses or punish perpetrators. The commission and ombudsman avoided addressing underlying structural problems that led to human rights abuses, although they advanced human rights by publicizing statistics and individual cases and aided citizens with less controversial social problems and issues involving lower-level elements of the bureaucracy.

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

Women

Rape and Domestic Violence: In December 2019 President Tokayev signed into law legislative amendments that increased punishments for sexual abuse and rape to eight years of imprisonment, and if committed against a minor, to life imprisonment. There were reports of police and judicial reluctance to act on reports of rape, particularly in spousal rape cases.

On August 27, an Almaty court held a trial for a rape case in which both a former prosecutor and a former manager of a local bank were charged with a November 2019 rape. When the victim first submitted a complaint to police, they refused to record the complaint. Due to her lawyer's persistence, the complaint was later officially registered. Police resistance, procrastination, attempts to hush up the complainant, and other hurdles delayed the investigation. The victim faced pressure and intimidation by the assailants' relatives who tried to force her to withdraw the complaint. Her lawyer resorted to making an effort to draw public attention to the case and publicize appeals to the president and parliamentarians. The investigation took nine months to complete and submit to the court. The case remained ongoing at year's end.

KAZAKHSTAN

According to human rights defenders, approximately 2,000 complaints of rape were registered annually, but fewer than 1 percent of them made it to court.

Legislation identifies various types of domestic violence, such as physical, psychological, sexual, and economic, and outlines the responsibilities of local and national governments and NGOs in providing support to domestic violence victims. The law also outlines mechanisms for the issuance of restraining orders and provides for the 24-hour administrative detention of abusers. The law sets the maximum sentence for spousal assault and battery at 10 years in prison, the same as for any assault. The law also permits prohibiting offenders from living with the victim if the perpetrator has somewhere else to live, allows victims of domestic violence to receive appropriate care regardless of the place of residence, and replaces financial penalties with administrative arrest if paying fines was hurting victims as well as perpetrators.

NGOs estimated that on average 12 women each day were subjected to domestic violence and more than 400 women died annually as a result of violence sustained from their spouses. Due in part to social stigma, research conducted by the Ministry of National Economy indicated that a majority of victims of partner abuse never told anyone of their abuse. 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 domestic violence--an administrative offense with a maximum penalty of 15 days' imprisonment--does not deter even convicted offenders.

In August 2019 the Almaty city court placed Baurzhan Ashigaliyev under pretrial arrest for two months on charges of deprivation of freedom and assault against his wife, well-known singer Kseniya Ashigaliyeva. According to Ashigaliyeva, her husband of seven years regularly beat her, but previous reports to police had resulted in no change in his behavior and no penalty to him. In July 2019 he abducted Ashigaliyeva off the street, tied her up in the basement of a building, and beat her severely. Ashigaliyeva turned to police and also the *NeMolchi* (Speak Out) movement for help, asking the organization to raise awareness of her case and share photographs of her injuries on the internet in order to reduce stigma against speaking out about domestic violence. On March 13, Almaty court acquitted

KAZAKHSTAN

Ashigaliyev. His wife appealed the court ruling, but the Almaty city court declined her appeal in June and upheld the trial court's ruling.

The government maintained domestic violence shelters in each region. According to the NGO Union of Crisis Centers, there were 31 crisis centers throughout the country providing reliable services to women and children who are victims of domestic violence, including 10 government-funded shelters.

Human rights activists noted an upsurge of domestic violence during the COVID-19 pandemic, which they attributed to several causes. When tight quarantine was imposed on the country, families were locked in their houses, and some individuals began to experience emotional problems because there was no way to vent emotions. According to these activists, many persons lacked the skills to control anger. The fear of COVID-19 exacerbated the negative emotional atmosphere. Alcohol consumption was often an aggravating factor. Assailants often seized the victims' telephone and cut them off from communication with the outside world. Because of the lockdown, victims could not leave their houses to escape from their assailants, stay with relatives, or elsewhere.

Activists criticized the government for failure to ensure that all vulnerable persons--women, men, children, elderly individuals, and persons with disabilities--were protected against domestic violence. Due to COVID-19 quarantines, some crisis centers were closed, health care was limited, and law enforcement agencies and courts were focused on quarantine-related tasks. When victims found the courage to report violence, activists reported that police were reluctant to act, sometimes did not issue restrictive orders to assailants, and tried to dissuade the victim from filing a complaint, creating an environment of impunity for aggressors.

Other Harmful Traditional Practices: 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 conviction of kidnapping. A person who voluntarily releases an abductee is absolved of criminal responsibility; because of this law, 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,

KAZAKHSTAN

making a complaint to police could be a very bureaucratic process and often subjected families and victims to humiliation.

In December 2019 a 20-year-old girl was kidnapped at a bus stop in Turkestan. Three men grabbed her and forced her into their car. The kidnappers took her to another town, Kentau, and pressured her to marry a man whom she barely knew. The girl was held against her will for two days. When she refused to marry the man, he physically assaulted and raped her. The girl managed to escape and return home, where she submitted a complaint to police. After the complaint was filed, the girl and her parents faced pressure from the local community and the kidnapper's family. As a result of this campaign of pressure and humiliation, the girl and her mother attempted suicide. The investigation was completed in January, and two men were convicted and sentenced to 7 and 8 years in prison.

Sexual Harassment: Sexual harassment remained a problem. No law protects women from sexual harassment, and only force or taking advantage of a victim's physical helplessness carries criminal liability in terms of sexual assault. In no instance was the law used to protect the victim, nor were there reports of any prosecutions. Victims of sexual harassment in the workplace were hesitant to lodge complaints out of shame or fear of job loss.

Reproductive Rights: By law couples and individuals have the right to decide the number, spacing, and timing of their children. They have the right to manage their reproductive health, and they have access to the information and means to do so, free from discrimination, coercion, and violence. Individuals have the right to use contraception and generally have access to it through individual health care providers.

There are no legal, social, or cultural barriers to skilled health attendance during pregnancy and childbirth. Over 95 percent of pregnant women benefit from prenatal care and more than 99 percent of births were attended by skilled medical personnel, according to World Health Organization reporting.

Access to government-provided sexual and reproductive health services for survivors of violence is limited but improving. In April 2020, with UN Population Fund assistance, the national government adopted its first clinical protocol for

KAZAKHSTAN

health assistance to victims of gender violence and organized online training for the staff of primary health centers. The UN Population Fund also arranged training for health workers, police, and social workers to strengthen coordination of their work in detecting and handling incidents of violence against women.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The constitution and law provide for equal rights and freedoms for men and women. The law prohibits discrimination based on gender. Significant salary gaps between men and women remained a serious problem. According to observers, women in rural areas faced greater discrimination than women in urban areas and suffered from a greater incidence of domestic violence, limited education and employment opportunities, limited access to information, and discrimination in their land and other property rights.

Children

Birth Registration: Citizenship is derived both by birth within the country's territory and from one's parents. The government registers all births upon receipt of the proper paperwork, which may come from the parents, other interested persons, or the medical facility where the birth occurred. Children born to undocumented mothers were denied birth certificates.

Education: According to the constitution, secondary school education is compulsory. The government provides for free, universal secondary education in public schools. Some children did not attend schools. Education authorities reported that 55 percent of schools were equipped and had staff for inclusive education for children with specific needs. Independent observers alleged that the number of such schools was in fact lower. There were no statistics on the number of children with disabilities who attended preschool institutions. Twenty percent of children with specific needs between the ages of 7 and 18 attended regular schools. The majority attended special correctional classes or were homeschooled. Some parents refused to send children with disabilities to school and viewed their education as unnecessary. Other parents did not know where they could refer their children. Some children from migrant families, particularly undocumented

KAZAKHSTAN

migrants and stateless persons, did not get education because they could not enroll in school.

Child Abuse: Human rights defenders demanded improvement of legislation to protect children from abuse, to include a clearer definition of the authority of the children's ombudsman and a legislative ban on corporal punishment.

Child abuse is a serious problem. According to UNICEF polls, 75 percent of adults supported corporal punishment of children by parents. According to a survey, 40 percent of children in institutions and 18 percent of children attending regular schools said they were subjected to physical abuse by adults. Children faced abuse, cruel, and disparaging treatment in families, schools (particularly special schools for delinquent children), and boarding schools.

Police reported that approximately 1,000 individuals were annually deprived of their parental rights. During the first five months of the year, more than 300 parents lost their parental rights, and more than 2,000 parents were punished by administrative penalties for failure to perform parenting duties.

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 issue.

Sexual Exploitation of Children: The law does not specify the minimum age for consensual sex, but it provides for eight to 15 years in prison for individuals convicted of forcing boys or girls younger than age 18 to have sexual intercourse. UNICEF reported that data on sexual abuse of children, child prostitution, child pornography, child trafficking, bride kidnapping, and forced marriage of girls remains scarce, making it difficult to assess the scale of rights violations.

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 retains administrative penalties for child pornography.

KAZAKHSTAN

Perpetrators convicted of sexual offenses against minors received a lifetime ban on working with children.

Sexual abuse and rape remained serious problems. Available police statistics showed a 49 percent increase in the number of rapes of children during the first eight months of the year, compared with the same period in 2019.

On July 24, a 5-year-old girl went missing in Satpayev town near Karaganda city, where she and her parents were visiting with relatives. Police and volunteers scoured the neighborhood and finally found the girl bound under a sofa in the apartment of a 58-year-old man. She was taken to the hospital, and police arrested the man. An angry crowd formed and wanted to punish the alleged pedophile themselves. Reportedly, the crowd gathered because the participants did not trust police, since abusers apparently go unpunished. (Note: According to human rights defenders, 39 percent of perpetrators of crimes against children were convicted by courts.) The crowd tried to break into the apartment and demanded that police hand the man over. Calls by police, local government officials, and local imams on the crowd to calm down had no effect. The crowd smashed windows and doors at the building and the local police station, and smashed and set fire to police vehicles. Authorities deployed riot police, and the crowd dispersed. The next day Minister of Internal Affairs Yerlan Turgumbaev stated publicly that the suspect was charged with kidnapping and raping a child. Authorities reported the suspect was found dead on October 6 in the detention facility.

Displaced Children: Human rights observers noted that the number of street children, mainly in large cities, was high. Street children were referred to Centers for Delinquent Children or the Support Center for Children in Difficult Life Situations. Some were returned to their families. According to the 2019 report of the Committee for Protection of Children Rights of the Ministry of Education and Science, there were 15 adaptation centers (AC) for delinquent children and 17 support centers (SC) for children in difficult life situations. More than 4,000 children were held in the ACs, and more than 2,000 in the SCs.

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

KAZAKHSTAN

children in orphanages or closed institutions suffered from abuse by teachers or other children. According to the Committee for Protection of Children Rights, the number of orphans who lived in orphanages decreased from 6,223 in 2017 to 4,606 during the year. The government continued its policy of closing orphanages and referring children to foster families and other forms of home care. Activists criticized the policy as ineffective because of the lack of a clear plan of children's deinstitutionalization, properly trained staff, infrastructure, or funds. They alleged that authorities focused on the closure of orphanages instead of working with families and preventing the placement of children in institutions. They also said critical decisions on the removal of a child from its family and placement in an institution were based on police, not social workers', reports.

Between April 2 and April 29, four children died at the Ayagoz Children's Center for Specialized Social Services, a facility for children with mental disabilities. The management of the facility and the local government tried to conceal the deaths, but on May 14, information was leaked to media and became public. The government established an ad hoc group to investigate the deaths. The group discovered numerous violations in their investigation. The report stated that the deaths were the result of underestimating the seriousness of child health problems by medical staff and of delayed hospitalization. Children's Rights Commissioner Aruzhan Sain called for a thorough investigation and highlighted past allegations of abuse against the facility. Police opened a criminal investigation.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

Leaders of the Jewish community estimated that the country's Jewish population was 10,000. They reported no incidents of anti-Semitism by the government or in society.

KAZAKHSTAN

Trafficking in Persons

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

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, and access to health care, and in the provision of other government services, but significant discrimination existed. Human rights defenders were concerned about 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 lacking. They also noted the ineffectiveness of government programs which were mere declarations. Their implementation was often marred with corruption and a lack of professionalism.

Employment remained a problem. One quarter of working age individuals with disabilities had jobs, according to a report in akron.kz. Activists noted that employers did not have sufficient incentives to hire persons with disabilities.

The law requires companies to set aside 3 percent of their jobs for persons with disabilities, and the government enacted high-level enforcement measures to enhance economic opportunities as part of the President's Strategy 2050; nevertheless, there were reports persons with disabilities faced difficulty integrating into society and finding employment.

Some children with Down syndrome were able to attend privately funded specialized education centers, but the centers had limited capacity, which resulted in long waiting periods of up to 1.5 years.

Human rights observers noted multiple types of discrimination against persons with disabilities; doctors discouraged women who use wheelchairs from having children; and the treatment of prisoners with disabilities in detention facilities remained a serious problem.

KAZAKHSTAN

The COVID-19 lockdown seriously affected persons with disabilities. Many persons with disabilities lost their jobs in sectors where telework was not possible. Additionally, without public transportation due to the lockdown, many had no way to commute, and taxi services did not work. School and university students with disabilities faced similar problems. If they did not have home computers, they were left with no access to online classes. Another problem during the quarantine lockdown was the closure of health facilities, which left medical support unavailable for persons with disabilities, both adults and children.

The lack of online access to information was a particularly serious problem during the lockdown for those with disabilities. It was impossible to reach call centers on the telephone, because most offices used for services were closed. The majority of persons with disabilities have low incomes and cannot afford to pay for internet access. Also, most of the rural areas have no internet. Another problem was that websites were not designed for users with disabilities, such as for persons who are blind. Human rights defenders reported that individuals with disabilities were frequently left without relief support (food baskets, money) extended to them by the government, because negligent government clerks forgot to add them into lists of recipients.

The government did not legally restrict the right of persons with disabilities to vote and arranged home voting for individuals who could not travel to accessible polling places. In 2018 election law was amended to mandate unhindered access to polling stations for persons with specific needs. Election monitoring NGO Yerkindik Kannaty reported positive cooperation with the CEC on implementing these requirements. The NGO observed that more polling stations were accessible during the year compared with previous elections.

There are no regulations regarding the rights of patients in mental hospitals. Human rights observers believed this 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.

KAZAKHSTAN

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

Members of the NPM may visit mental hospitals to monitor conditions and signs of possible torture of patients.

Members of National/Racial/Ethnic Minority Groups

The official policy for languages in the country is termed trilingualism. Kazakh is the official state language, Russian has equal status as the language of interethnic communication, and English is the language of successful integration into global economics. The law requires that presidential candidates are fluent in Kazakh. The constitution prohibits discrimination based on language, but all prospective civil servants are required to pass a Kazakh language exam.

The constitution and law prohibit discrimination based on race or ethnic origin. Ethnic minorities, however, faced problems in various areas of life. In May the government set up a Committee on Development of Interethnic Relations as part of the Ministry of Information and Social Development. The new committee is responsible for implementation of the government policy on interethnic relations, and the Institute of Ethnic-Political Studies under the ministry performs analysis and research and provides expert professional recommendations on government policy.

At the high levels of national government, three of the 23 cabinet members were non-Kazakhs. Ethnic minorities were underrepresented in other government bodies as well. Human rights observers noted that ethnic minorities were not incorporated into the country's social and political mechanisms and their role was shrinking. They also noted that the government should--but did not--provide minorities equal participation in social life, equal access to government service, equal business opportunities, and most importantly, equal treatment before the law. Observers further noted that pushing a significant part of the population out from the country's social and political field (marginalizing) would likely result in social tension.

KAZAKHSTAN

On February 8, riots broke out in Masanchi, Sortobe, Bular Batyr, and Aukhatty villages in Qorday district. The riots were provoked by the following two incidents the day before the riots: a road traffic incident in which an elderly man was beaten by men of Dungan origin, and a fight between local Dungans and ethnic Kazakh police officers. Information about the incidents was shared in the community and on social media, and as a result rioting began and led to looting and the destruction of homes. Thousands of Dungans fled to the neighboring Kyrgyz Republic. Authorities declared an emergency situation in the Qorday district, deployed police special forces, and established police checkpoints around the four villages. Authorities launched more than 120 criminal investigations, 11 of them on homicide charges. Prosecutors reported that 11 victims died and dozens of rioters were arrested. There were 192 individuals, including 19 policemen, injured, and 168 houses and 122 vehicles were damaged. The province governor, his deputy, several other senior government officials, and police officers were dismissed. On March 1, President Tokayev visited the region and met with local residents. He stated that the riots were a result of a conflict between two organized criminal groups that were fighting for control over illegal economic activities.

On April 24, the Qorday local court convicted two participants of the February riots. Ersman Yunhu was sentenced to 2.5 years of restriction of freedom and six months of correction works. His son, Marat Yunhu, received 2.5 years of imprisonment.

Observers criticized authorities for failing to admit that the violence was primarily aimed against Dungans, since the majority of the destroyed property was owned by Dungans, and 10 ethnic-Dungan citizens were killed, compared with a single ethnic-Kazakh citizen. On May 14, the Association of Dungans in Kazakhstan appealed to the UN and other international organizations to urge the country's authorities to stop persecution, stop violations of the rights of Dungans, and hold accountable those who were responsible for torture and abuse. The association also called for an independent investigation of the February 8 incident, for restitution of the damage inflicted during the riots, and for punishment of those who disseminate anti-Dungan, offensive, and hateful statements in media and social media.

KAZAKHSTAN

In May prosecutors reported that they were investigating 29 criminal cases with 59 suspects charged for homicide, mass disorder, attempts on lives of law enforcement officers, theft, and looting.

In August the UN Committee on Elimination of Racial Discrimination reviewed information about the Qorday incident and requested that the government provide a response before October 30; “conduct [an] effective, impartial and transparent investigation of the events;” ensure effective protection of the Dungan minority; provide reparation, including health and psychological support; and guarantee access by independent observers to the Qorday district. By year’s end there was no publicly released response from the government.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

According to the constitution, no one shall be subjected to any discrimination for reasons of origin; occupational, social, or property status; sex; race; nationality; language; religion or belief; place of residence; or any other circumstances. The country does not criminalize consensual same-sex sexual activity.

Although gender reassignment documentation 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. Activists expressed concerns about the country’s new health law passed in July. The law sets the age of eligibility for gender reassignment at 21 (Note: the UN Human Rights Council recommends 18). The law also added behavioral disorders to the reasons for denial of gender reassignment, which expanded the categories of persons who could be denied such treatments.

Prosecutions of anti-LGBTI violence were rare. There were reports of anti-LGBTI violence, but there were no government statistics on discrimination or violence based on sexual orientation or gender identity. According to a 2017 NGO survey within the LGBTI community, 48 percent of respondents experienced violence or

KAZAKHSTAN

hate because of their sexual orientation, and 56 percent responded they knew someone who suffered from violence. The most frequent forms of abuse were verbal insults, harassment, interference in private life, and physical assaults.

NGOs reported members of the LGBTI community seldom turned to law enforcement agencies to report violence against them because they feared hostility, ridicule, and 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 with regard to employment.

In September 2019 Nur-Sultan police reported that two men were under pretrial detention for the investigation of sexual assault, beating, and extortion of a 21-year-old gay man in July. A medical examination showed that the man sustained serious injuries after he was attacked in an apartment. In December 2019 a court sentenced each abuser to six years of incarceration.

Activists told media that beating, extortion, and harassment of LGBTI individuals were not uncommon, although typically unreported. Human rights activists reported that the COVID-19 pandemic situation also impacted LGBTI communities negatively. Locked down in their houses, they often endured stress and abuse from family members who resented their status. 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, and they were often not eligible to receive programs offered by the government to support needy individuals. Transgender persons, like many during the lockdowns, also faced difficulties receiving needed medical care because health facilities were restricted or closed. They often could not get necessary medicines, because they were not available in small pharmacies in their neighborhoods, or they could not afford them.

In July 2019 Victoria Berkkhodjayeva, a transgender woman serving a sentence in Zhaugashty, Almaty region, told authorities that she had been raped three times by a KNB officer. Berkkhodjayeva reported the incident to the Prosecutor General's Office and the Anticorruption Agency. Almaty region police launched an

KAZAKHSTAN

investigation. In October 2019 media further reported that authorities had placed Sani Abdikash, the KNB officer suspected of rape, under arrest based on the results of forensic tests. On February 18, court proceedings began in a district court in Almaty province. In October, the Ile district court in Almaty found Abdikash guilty of rape and sentenced him to five and one-half years of imprisonment.

HIV and AIDS Social Stigma

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 provides 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' right to unionize but limits workers' freedom of association. The law restricted workers' freedom of association by requiring all labor unions to affiliate with higher-level unions. On May 4, the government enacted amendments to labor-related laws, including the trade union law, to bring them closer to compliance with International Labor Organization (ILO) standards, in particular, the convention on freedom of association. The amendments removed the requirement that lower-level unions affiliate with higher-level sectoral-, territorial-, and national-level federations. The amendments also lowered membership requirements and simplified other registration requirements.

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 successor to state-sponsored Soviet-era labor organizations and 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.

In July 2019 a court in Shymkent sentenced Yerlan Baltabay, the leader of an independent union of petrochemical workers, to seven years' imprisonment for

KAZAKHSTAN

embezzlement of union dues. Human rights observers noted the parallels between Baltabay's case and the investigation and ultimate conviction of Larisa Kharkova in 2017 and asserted that Baltabay was also targeted for his independent labor union activism. Baltabay appealed to the president for pardon, admitting his guilt and promising to compensate inflicted damages, and President Tokayev granted pardon in August 2019. In September 2019 Baltabay published an open letter on the website of the Human Rights Bureau, reasserting his innocence in the case and stating that he had only asked for pardon at the urging of the KNB. Baltabay did not repay the claimed damages, and authorities returned him to prison in October 2019. On March 20, he was released, but he remained banned from any public activity, including trade union activities, for the next seven years.

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 violations of these provisions included fines and imprisonment of up to 75 days, but these penalties did not deter violations. Penalties were commensurate with those for other laws involving denials of civil rights. According to the FTUK, as of January, 98 percent of large and medium enterprises had collective agreements. Overall, 41.2 percent of all working enterprises had collective agreements.

The country's three national-level labor unions--the FTUK with two million members, Commonwealth of Trade Unions of Kazakhstan Amanat with 300,000 members, and Kazakhstan Confederation of Labor (KCL) with up to 800,000 members--had more than three million members, or 40 percent of the workforce, as of March 1. These three labor unions, jointly, consist of 24 industry trade unions, 17 regional trade unions, and more than 18,000 local trade unions. Another trade union, Yntymak, with more than 57,000 members, was established in 2018 to represent small and medium enterprises. The law provides for the right to strike in principle but imposes onerous restrictions that make strikes unlikely. For example, the right to strike may be granted only after the dispute is brought to a reconciliatory commission for consideration. It may take more than forty days to initiate the strike in accordance with the law, trade union members reported. In addition, by law there are a variety of circumstances in which strikes are illegal. A blanket legal restriction bars certain occupations from conducting a strike.

KAZAKHSTAN

Military and other security service members, emergency medical, fire, and rescue crews, as well as those who operate “dangerous” production facilities are forbidden to strike. By law such strikes are illegal.

Workers employed in the railway, transport and communications, civil aviation, healthcare, and public utilities sectors may strike, but only if they maintain minimum services to the public--that is, provided there is no harm caused to other individuals. Numerous legal limitations restrict workers’ right to strike in other industries as well. Generally, workers may not strike unless a labor dispute cannot be resolved through compulsory arbitration procedures. Decisions to strike must be taken in a meeting where at least one-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.

Officials are suspected of inflicting violence in response to supposed unlawful attempts to associate. Police were accused of beating labor and civil rights activist Dulat Agadil, who died in February of unconfirmed causes while in pretrial detention, after he was arrested for his suspected links to the banned Democratic Choice of Kazakhstan movement.

Employers may fire striking workers after a court declares a strike illegal. The 2014 law also enabled the government to target labor organizers by imposing criminal charges and up to three years in prison for calls to participate in strikes declared illegal by the court. Amendments to the law during the year softened the penalty for such calls. If the calls for strikes did not result in a material violation of rights and interests of other individuals, they would be classified as minor criminal offenses, and the penalty would be limited to a fine or community service.

The law limits worker rights to make claims on their employers. For example, one article requires employers to negotiate any labor-related act with official employee representatives. If there are multiple official representatives, they have five days in which to form a working group to discuss the proposed act. If the group cannot come to consensus, the employer may accept the act without the consent of the employees. The amendments annulled the previous clause that allowed an employer to dismiss an employee, as long as a compensation allowance is paid per the labor contract. Another article lists 25 reasons an employer may fire a worker.

KAZAKHSTAN

Another provision mandates the employer to respond to a resolution of the Council for Labor Protection within 15 days.

Disagreements between unions and their employers may be presented to a tripartite commission 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 agreements governing most aspects of labor relations. The FTUK, Amanat, and KCL established a working group on May 28 to draft the general agreement for 2021-23. They recommended that the government and employers increase the minimum wage, change the minimum subsistence allowance, establish a minimum basket of consumer goods, and negotiate on other social matters.

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 resided in the country were not per se exempt from the law. Approximately two million of the 8.8 million economically active citizens were self-employed as of March.

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 sentencing or a condition of a state of emergency or martial law. Penalties were commensurate with those for other analogous serious crimes, such as kidnapping.

The law provides for punishment of convicted traffickers and those who facilitated forced exploitation and trafficking, including labor recruiters who hired workers through deliberately fraudulent or deceptive offers with the intent to subject them to forced labor, or employers or labor agents who confiscated passports or travel documents to keep workers in a state of involuntary servitude. Conviction of trafficking in persons for the purpose of labor and sexual exploitation is punishable by penalties that are sufficient to deter violations. Conviction of kidnapping and

KAZAKHSTAN

illegal deprivation of freedom with the purpose of labor or sexual exploitation is also punishable by penalties that were considered sufficient to deter violations.

The Ministry of Labor and Social Protection is responsible for conducting checks of employers to reveal labor law violations, including exploitation of foreign workers. The Ministry of Internal Affairs is responsible for identifying victims of forced labor and sexual exploitation and initiating criminal proceedings. The government effectively enforced laws to identify domestic victims of sexual exploitation, but it did not effectively enforce laws to identify foreign and domestic victims of labor trafficking. The statistics on identification of foreign victims remained low; three foreign victims were identified in 2019--two victims of forced begging and one victim of labor exploitation. Police conducted interagency operations to find victims of forced labor. Identification of forced labor victims, however, remained low and even decreased twice compared with 2018. Of 40 victims identified in 2019, 35 were victims of sexual exploitation, three were victims of labor exploitation, and two were victims of forced begging. In 2019 police investigated 102 criminal cases of human trafficking, and courts convicted eight traffickers, all for sexual exploitation.

Migrant workers were considered most at risk for forced or compulsory labor. In 2019 according to the Ministry of Internal Affairs, 1.6 million persons were registered as migrants in the country. The majority of migrant workers came from Uzbekistan, but there were also lesser numbers from Tajikistan and Kyrgyzstan. Migrant workers found employment primarily in agriculture and construction. The Ministry of Labor and Social Protection is responsible for handling matters related to migrant labor. In 2017 the government adopted a new *Concept of Migration Policy for 2017-21* and an accompanying implementation plan. Together, these changes addressed both internal and external modern challenges, such as the excess of low-skilled labor due to increased inflow of labor migrants from other Central Asian countries and the deficiency of high-skilled labor in some sectors of the economy due to a low level of education.

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

KAZAKHSTAN

c. Prohibition of Child Labor and Minimum Age for Employment

The general minimum age for employment is 16. With parental permission, however, children ages 14 through 16 may perform light work that did not interfere with their health or education. The law prohibits minors from engaging in hazardous work and restricts the length of the workday for employees younger than 18.

The law prohibits all the worst forms of child labor; however, gaps existed in the legal framework to protect children adequately from the worst forms of child labor. Prohibitions against the worst forms of child labor include criminal punishment under the law. Conviction of violation of minimum age employment in hazardous work, engaging minors in pornographic shows or production of materials containing pornographic images of minors, coercion of minors into prostitution, kidnapping or illegal deprivation of freedom of a minor for the purpose of exploitation, and trafficking in minors are punishable by penalties that were commensurate with those for analogous serious crimes, such as kidnapping. The Ministry of Internal Affairs is responsible for investigating criminal offenses and training criminal police in investigating the worst forms of child labor.

The law provides for noncriminal punishments for violations of the law, including written warnings, suspensions, terminations, the withdrawal of licenses for specific types of activities, administrative penalties or fines, and administrative arrest (only by court decision and only up to 15 days for violation of legislation in relation to minors). Such violations include employment of minors without an employment agreement, which is punishable by fine with suspension of the employer's license. Untimely or incorrect payment of salaries, nonprovision of vacation or time off, excessive work hours, and discrimination in the workplace are also punishable by fines. The Ministry of Labor and Social Protection is responsible for enforcement of child labor law and for administrative offenses punishable by fines.

The government has established institutional mechanisms for the enforcement of child labor law and regulations, but the government did not always effectively enforce the law. The complaint mechanism does not allow for anonymous individuals to report labor violations and, in 2019 no case of child labor was reported to government hotlines.

KAZAKHSTAN

Sporadic instances of children working below the country's minimum age of employment were reported in agriculture, including producing vegetables, weeding, and collecting worms; in construction; in the markets and streets, including transporting and selling items; in domestic work; in gas stations, car washing, and working as bus conductors; or as waiters in restaurants. There were no reports of child victims of forced labor in the sectors noted above, nor was there evidence of children being compelled or forced into such work through slavery, debt bondage, or trafficking for purposes of labor exploitation. In October media reported cotton harvesters in the country and stated they have a lack of workers, who are normally supplied by neighboring Uzbekistan. Because of this, farmers have been reliant on employing children and teenagers to work in cotton fields. Schoolchildren were spotted in fields in the Maktaaral and Zhetisay districts of the southern Turkestan region. Local farmers are traditionally aided by migrant workers from Uzbekistan, but that labor supply was interrupted by travel restrictions imposed to contain the two countries' COVID-19 outbreaks. These forms of labor were determined by local legislation to be potentially hazardous and categorized as the worst forms of child labor. The majority of such situations occur on family farms or in family businesses.

There were 10 instances of children being used in hazardous activities, including one case of trafficking in minors for the purpose of sexual exploitation, five cases of the coercion of minors into prostitution, two cases of the engagement of minors into pornographic activities, and two cases of violation of labor legislation related to the engagement of children in works that are not allowed for children younger than age 18. In the last case, two boys (ages 13 and 15) died of carbon monoxide poisoning while sleeping overnight in the cafe where they worked as waiters.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at 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 www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods.

d. Discrimination with Respect to Employment and Occupation

By law transgender individuals are effectively barred from working in law enforcement agencies or serving in the military. Law and regulations prohibit

KAZAKHSTAN

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, public associations, or property, social, or official status. The law does not specifically prohibit discrimination with respect to laws related to employment and occupation based on sexual orientation, gender identity, HIV-positive status, or having other communicable diseases. The law prohibits specific listed conditions or diseases to work in law enforcement agencies or serve in the military. The government effectively enforced the law and regulations. Discrimination is an administrative offense punishable by a fine that is not sufficient to deter violations. Some cases like illegal termination of labor contracts due to pregnancy, disability, or minority are considered criminal offenses and are punishable by penalties which are sufficient to deter violations related to civil rights, such as election interference.

Discrimination, however, occurred with respect to employment and occupation for persons with disabilities, transgender persons, orphans, and former convicts. Transgender persons experienced workplace discrimination and have been repeatedly fired for their identity. Disability NGOs reported that despite government efforts, obtaining employment was difficult for persons with disabilities. The law does not require equal pay for equal work for women and men. NGOs reported no government body assumes responsibility for implementing antidiscrimination legislation and asserted the law's definition of gender discrimination did not comply with international standards.

The law prohibits women from performing work in harmful conditions that require them to lift or move heavy loads. On August 6, Human Rights Commissioner Elvira Azimova proposed to amend the law to provide for equal labor rights for men and women by repealing the list of harmful and hazardous occupations prohibited for women. She particularly asked for elimination of the provision to deny employment to a female applicant in nuclear power, oil and gas, metals and mining, or petrochemical industries if working conditions are not deemed safe. In response, and in line with the recommendations of the UN Committee on the Elimination of Discrimination against Women, the country committed to annul the list of hazardous industries to specify equal access to all jobs.

KAZAKHSTAN

In June 2019 a fight occurred at the Chevron-operated Tengiz oilfield between local and foreign workers, resulting in 45 injuries. A leading cause of the conflict was discontent among local workers who complained of wage discrepancy between local and foreign workers with similar qualifications. Following the incident the Ministry of Labor and Social Protection launched a series of inspections at companies employing foreign workers. The ministry reported the following violations: 1) foreign workers were paid 30-50 percent more than local workers; 2) local workers were paid in local currency, while foreign workers were paid in U.S. dollars; and 3) some foreign workers occupied positions that differed from that described on the work permits. These violations are punishable by fines, annulment of work permits, or deportation of a company's foreign workforce. In February media reported the governor of a province bordering China stated he would seek the deportation of dozens of Chinese workers to defuse the local population's fears of COVID-19.

In December 2019 the Labor and Social Protection Ministry and the Prosecutor General's Office discovered 930 violations of law in 95 companies that employed foreigners. The most frequent violations revealed by the inspection included labor done by foreign workers that did not correspond to their work permits and discrepancies between education and job positions of foreign workers. In February Minister of Labor and Social Protection Birzhan Nurymbetov threatened companies that provide unequal living conditions for local and foreign workers with administrative actions. The ministry intended annually to inspect companies that employ more than 250 persons, including more than 30 foreign workers. Article 1 of the labor law was amended in May to provide for equal pay and equal working and living conditions with no discrimination.

e. Acceptable Conditions of Work

During the year the national monthly minimum wage was 42,500 tenge (\$106) and above the poverty line, which the Bureau of National Statistics reported was 32,688 tenge (\$81) per month. In April media reported the Health Care and Social Development Ministry blamed regional governments for failing to provide personal protective equipment and other necessary supplies to hospital workers on the front line of the battle against COVID-19. In some regions doctors complained about a shortage of equipment, test kits, and specialists in rural hospitals. A doctor

KAZAKHSTAN

from Jambyl province reportedly said she was the only infectious disease specialist on hand to deal with COVID-19 patients at the main hospital in the Merki district, which has an estimated 85,000 inhabitants. For two days in early April, she had to come to work with a high fever after contracting COVID-19 from a patient. She reportedly stated that medics received up to six face masks a day, but eventually nurses were ordered to make masks.

As of August 2018, the government reported that 1.3 million citizens of a nine-million-person workforce were not registered as either employed or unemployed, meaning that they likely worked in the informal economy. A Ministry of Finance spokesperson separately reported during the year that up to one-third of workers were engaged in the informal economy, referencing 2015 government and international organization statistics. These workers were concentrated in the retail trade, transport services, agriculture, real estate, beauty and hair dressing salons, and laundry and dry-cleaning businesses. Small entrepreneurs and their employees for the most part work without health, social, or pension benefits.

In May the Center for Development of Human Resources forecasted that, due to the pandemic, more than 2.5 million workers likely would lose income or be temporarily laid off. The largest layoffs or temporary job suspensions would affect accommodation and catering services, leisure and entertainment, trade, transportation and warehousing, and construction. In August the government reported assisting 743,000 individuals with vocational training, permanent employment, or temporary employment.

The law stipulates the normal workweek should not exceed 40 hours and limits heavy manual labor or hazardous work to no more than 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 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.

The government sets occupational health and safety standards. The law requires employers to suspend work that could endanger the life or health of workers and to

KAZAKHSTAN

warn workers about any harmful or dangerous work conditions or the possibility of any occupational disease. The occupational safety and health standards are set and inspected by government experts. The law specifically grants workers the right to remove themselves from situations that endanger their health or safety without suffering adverse employment action.

Overtime pay for holiday and after-hours work is equal to 1.5 times regular salary. The decision on pay is made by the employer or in compliance with a collective agreement, and the amount of pay is based on so-called industry-specific wage multipliers, stipulated by industrial agreements.

The Ministry of Labor and Social Protection enforces the minimum wage, workhour restrictions, overtime, and occupational safety and health standards. By law labor inspectors have the right to conduct announced and unannounced inspections of workplaces to detect violations. Both types of inspections take place only after written notification. Violations of law are considered administrative offenses, not criminal ones. Penalties for violations of minimum wage and overtime law were not commensurate with crimes like fraud. For example, a minimal punishment for fraud is a fine of approximately 2.7 million tenge (\$6,500) or imprisonment for up to two years, while violations of wage or overtime payment provisions result in fines from 84,000 tenge to 272,000 tenge (\$200 to \$650). Penalties for violations of occupational health and safety law were also not commensurate with crimes like negligence. The latter is a criminal offense and punished either by fines or public/corrective works, or by the five-year maximum term of imprisonment. Violation of the labor safety requirements may result in notification or fines.

Inspections based on risk assessment reports are announced in writing not less than 30 days before the beginning of the inspection. Unplanned inspections are announced not less than one day prior to the beginning of the inspection. Ministry inspectors conducted random inspections of employers. From January to June, inspectors conducted 1,900 inspections and detected 3,000 violations of the law, such as wage arrears, unsafe work conditions, and illegal employment or dismissal. The FTUK analyzed and concluded that unequal payments and work conditions of local and foreign workers, the increase and indexation of wages, and the absence of

KAZAKHSTAN

local labor unions in the companies were the main factors that caused social tension in 2019.

In February the Ministry of Labor and Social Protection reported that the country has 260 labor inspectors, or one inspector per every 23,000 workers, while the ILO recommends one inspector per every 10,000 employees. The law does not allow labor inspectors to respond to violations without the permission of the prosecutor's office and a notification to the employer.

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 the three-year period. In the opinion of labor rights activists, the practice may worsen labor conditions and conceal problems. By law any enterprise or company may form a production council to address labor safety problems from representatives of an employer and employees. These councils are eligible to conduct their own inspections of the employees' work conditions. As of January 2019, there were 12,855 production councils and 17,751 volunteer labor inspectors.

There were reports some employers ignored regulations concerning occupational health and safety. Occupational safety and health conditions in the construction, industrial, and agricultural sectors often were substandard. Workers in factories sometimes lacked quality protective clothing and sometimes worked in conditions of poor visibility and ventilation. In 2019 the government reported 1,215 workplace injuries, of which 148 resulted in death. The government attributed many labor-related deaths to antiquated equipment, insufficient detection and prevention of occupational diseases in workers engaged in harmful labor, and disregard for safety regulations. The most dangerous jobs were in mining, construction, and oil and gas, according to an expert analysis of occupations with the highest fatalities. The Ministry of Labor and Social Protection reported that in 2019, out of 1.6 million workers, more than 373,000 or 23 percent labored in hazardous conditions, 45.4 percent worked with high levels of noise and vibration, and 34.4 percent labored under high dust and gas levels.

KAZAKHSTAN

Some companies tried to avoid payments to injured workers. Critics reported that employers, the FTUK, and the Ministry of Labor and Social Protection were more concerned with bureaucracy and filling out reports on work-related accidents than with taking measures to reduce their number. A minimal noncompliance with labor safety requirements may result in a company's refusal to compensate workers for industrial injuries. According to activists, in 30 percent of cases, workers themselves were blamed for violating occupational health and safety regulations.

The Aktobe Labor Inspection blamed the management of the Aktobe Chromium Compound Plant for the May 28 accident in which two workers were injured and five died of chemical burns and poisoning while cleaning a tank used to hold hydroxyl. The Aktobe Labor Inspection assigned 80 percent of the blame for the accident to the employer for the breach of labor safety rules.