

KAZAKHSTAN

EXECUTIVE SUMMARY

The Republic of Kazakhstan has a parliamentary system dominated by President Nursultan Nazarbayev and the ruling Nur Otan Party. The constitution concentrates power in the presidency. The president controls the legislature and the judiciary as well as the regional and local government. Changes or amendments to the constitution require presidential consent. The April 3 presidential election, in which President Nazarbayev received 95 percent of the vote, fell short of international standards. The 2007 national elections for the Mazhilis (lower house of parliament), in which Nur Otan won every seat in the chamber with 88 percent of the vote, also were flawed. Some security forces reported to civilian authorities; intelligence services reported to an army general who was appointed as head of the Ministry of Internal Affairs.

The most significant human rights problems were severe limits on citizens' rights to change their government; restrictions on freedom of speech, press, assembly, and association; and lack of an independent judiciary and due process, especially in dealing with pervasive corruption and law enforcement and judicial abuse. On December 16 and 17, public violence in Mangistau Oblast fueled by a long-running strike and other social grievances left at least 17 people dead and over 100 injured.

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

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

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

a. Arbitrary or Unlawful Deprivation of Life

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

On December 16 and 17, law enforcement officers shot into crowds of rioters in Zhanaozen and the nearby village of Shetpe, leaving at least 17 people dead and over 100 injured. According to data from the Zhanaozen hospital, over 85 percent of patients had bullet wounds. Unconfirmed videos posted online by opposition-affiliated groups depicted law enforcement officials shooting into the crowds. Rioters began by disrupting an Independence Day celebration in the main square and set fire to the local government headquarters, local businesses, banks, and stores, which experienced heavy looting. A government-led investigation resulted in the arrests of four law enforcement officials, including three with supervisory responsibilities, for excessive use of force. The report also revealed formal corruption accusations against two previous Zhanaozen mayors, a KazMunayGaz subsidiary director, and a Munay Ecology Ltd. director. According to the report, authorities arrested 55 civilians for participation in the riots or looting.

On May 8, Dmitry Rakishev died in a Stepnogorsk pretrial detention facility after authorities arrested him for theft on April 29. Although authorities claimed that Rakishev died of pneumonia or tuberculosis aggravated by broken ribs incurred by falling from his bed, human rights activists asserted that detention center staff abused him and caused his death. On October 19, police opened a criminal investigation in connection with Rakishev's death. On December 20, the investigation was completed, and the case was forwarded to the courts. The former Director of the Stepnogorsk pretrial detention facility D. Abetov was charged for failure to take action.

Military hazing led to deaths, suicides, and serious injuries. For example, on June 8, military hazing, including abuse and extortion of money by older soldiers for over three months, led conscript Madi Aytakhynov to commit suicide. The Prosecutor General's Office (PGO) arrested two suspects in an ongoing investigation.

The government reported 15 incidents of nonlethal military hazing during the year. The government did not publish statistics on the number of deaths linked to hazing during the year. The number of suicides in the army decreased significantly from the previous year. Authorities reported two suicides. There were 17 in 2010.

b. Disappearance

There were no reports of disappearances during the year.

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

The law prohibits torture; nevertheless, the police and prison officials regularly beat and abused detainees, often to obtain confessions. For example, on March 6, police beat Saran student Mikhail Lutoshkin to obtain a confession in connection with the theft of a cell phone. A city court convicted the head of the Saran Criminal Police, Vadim Koriaka, and officer Ruslan Aukenov, of torture and sentenced them to three-and-a-half and two-and-a-half years in prison, respectively.

Human rights activists asserted that the legal definition of torture was too vague and did not meet UN standards and that the penalties for the crime were too lenient. The PGO, the Presidential Human Rights Commission, and the human rights ombudsman acknowledged that some law enforcement officers used torture and other illegal methods of investigation. Human rights and international legal observers noted investigative and prosecutorial practices that overemphasized a defendant's confession of guilt over collecting other types of evidence in building a criminal case against a defendant. Courts generally ignored allegations by defendants that officials had obtained confessions by torture or duress.

At an October 2010 event hosted by the Office of the UN High Commissioner for Refugees (UNHCR) and several NGOs, Manfred Nowak, the UN special rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, stated that according to his assessment, torture in Kazakhstan was not widespread, although a culture of impunity allowed police to use extreme methods, such as heavy beating and asphyxiation, to obtain confessions. Nowak stated that police rarely investigated complaints of torture.

The human rights ombudsman reviewed prisoner and detainee complaints. The ombudsman can either issue a recommendation directly to the relevant agency or release a public statement, although it legally cannot force compliance with its recommendations. The Coalition of NGOs against Torture received 156 complaints during the year. Local NGOs reported that the government acknowledged publicly that torture was a problem.

The government charged 97 military service members with crimes related to military hazing and abuse of power during the year, compared with 162 in 2010.

The government investigated some allegations of conscript hazing and prosecuted soldiers who engaged in this abuse, forwarding 12 hazing cases to the courts, resulting in 10 convictions. The Ministry of Defense continued unannounced inspections and required systematic reports from senior officers about hazing in their units.

Prison and Detention Center Conditions

Prison conditions were harsh and life threatening. Facilities did not meet international health standards. Scarcity of medical care continued to be a problem. Prisoners had access to potable water. NGOs reported that approximately half of the inmate population needed professional treatment, especially for HIV/AIDS, tuberculosis, and other infectious diseases. Abuse occurred in police cells, pretrial detention facilities, and prisons. Observers cited severe overcrowding, poor treatment of inmates and detainees, and the lack of professional training programs for administrators.

According to observers, prisoners and detainees generally had reasonable access to visitors. At an October 2010 event, Special Rapporteur Nowak stated that, in his six years in office, Kazakhstan was the only country that had attempted to conceal the actual situation in its prisons. Human rights activists reported complaints that prison administrators interfered with prisoners' religious observance. The Coalition of NGOs against Torture reported an increase in the submission of all complaints from prisoners.

International NGOs expressed concern that the August 1 transfer of the penitentiary system from the Ministry of Justice back to the Ministry of the Interior could compromise the fair treatment of prisoners, and experts expressed concern that it could aggravate existing poor prison conditions.

During the year, the government reported 45 deaths in pretrial detention centers and police cells, compared with 31 in 2010, and Penal Reform International reported 299 deaths in prisons. The government reported 14 suicides in pretrial detention facilities and police cells, a decrease from 40 in 2010. Penal Reform International reported 49 suicides in prisons, up from 36 in 2010. According to the latest government statistics, there were approximately 52,000 prisoners and

detainees in pretrial facilities. The government took steps to decrease the total number of prisoners. January 1 amendments to the criminal code lowered penalties for some categories of crimes, resulting in the release of 8,390 prisoners. An amnesty bill signed into law on December 29 planned the release of 2,142 prisoners, reduction of sentences for 534, and amnesty for 13,511 parolees. Although alternatives existed for sentencing non-violent offenders, officials and NGOs noted that they remained underutilized.

Incidents of inmates' self-mutilation as a protest against harsh prison conditions and abuse increased considerably, with 229 cases involving 386 inmates reported during the year; 47 were group mutilations.

On August 26, 35 prisoners in prison UZD 158/2 rioted after police suppressed a self-mutilation protest against abuse. In response to public pressure, prison administrators later admitted that officers previously applied force against 28 prisoners during a search for illegal paraphernalia. Authorities did not launch an investigation.

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

The government addressed systemic patterns that encouraged prisoner abuse by increasing access for regional penitentiary oversight commissions, training programs for prison officials, and police seminars. By year's end, authorities had prosecuted 132 law enforcement officials for abuses, compared with 48 in 2010. Authorities investigated six law enforcement officers on torture charges, and courts convicted four.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

The Ministry of Internal Affairs supervises the national police force, which has primary responsibility for internal security, including investigation and prevention of crimes and administrative offenses and maintenance of public order and

security. The Agency for Combating Economic and Corruption Crimes (Financial Police) has administrative and criminal investigative powers. The Committee for National Security (KNB) plays a role in border security, internal security, antiterrorism efforts, and the investigation and interdiction of illegal or unregistered groups, such as extremist groups, military groups, political parties, religious groups, and trade unions. The KNB, Syrbar (a separate foreign intelligence service), and the Financial Police report directly to the president. The April 12 appointment of General Kalmukhanbet Kasymov ended a tradition of civilian interior ministers.

During the year the government accepted 4,150 complaints on the Minister of Internal Affairs' blog, 329 of which related to police corruption and abuse. A separate Ministry of Internal Affairs blog designed to register complaints against law enforcement officials received 390 complaints. The majority of ministers, including the prime minister, maintained similar personal blogs.

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

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

Arrest Procedures and Treatment While in Detention

Although the judiciary has the authority to sanction arrests, independent observers reported that judges usually sanctioned prosecutors' requests. Arrest data for 2010 and 2011 is unavailable. Prosecutors continued to have the power to authorize investigative actions, such as search and seizure.

Persons detained, arrested, or accused of committing a crime have the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation. The law does not require police to inform detainees that they have the right to an attorney, and in practice police did not do so. Human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney, gathered evidence through preliminary questioning before a detainee's attorney arrived, and, in some cases, used corrupt defense attorneys to gather evidence. The law states that the government must provide an attorney for an indigent suspect or defendant

when the suspect is a minor, has physical or mental disabilities, or faces serious criminal charges. In practice public defenders often lacked the necessary experience and training to assist defendants. Defendants are barred from freely choosing their defense counsel if the cases against them involve state secrets. The law only allows lawyers who have special clearance to work on such cases.

Arbitrary Arrest: Prosecutors reported continuing problems with arbitrary arrest and detention of citizens. According to the government, police did not detain any individuals illegally in police cells or pretrial detention facilities; however, unverified media reports recorded 18 incidents of illegal detention by police during the year, and the Prosecutor General's Office reported the release of 1,063 individuals illegally detained and held in police offices, 490 of whom were minors and 93 of whom were women.

The government occasionally arrested and detained government opponents and critics, sometimes for minor infractions such as unsanctioned assembly, which incurred either fines or 10 days of administrative arrest. There were no allegations of prolonged detention for political offenses.

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

Amnesty: An amnesty bill signed into law on December 29 planned the release of 2,142 prisoners, reduction of sentences for 534, and amnesty for 13,511 parolees.

e. Denial of Fair Public Trial

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

Corruption was evident at every stage of the judicial process. Although judges were among the most highly paid government employees, lawyers and human rights monitors alleged that judges, prosecutors, and other officials solicited bribes

in exchange for favorable rulings in the majority of criminal cases. On April 15, the Senate dismissed six of the country's 44 Supreme Court judges, and subsequently replaced the chief justice. In July, the Ministry of Justice fired 35 judges and recommended to the president that an additional 52 also be fired. The ministry promised to monitor an additional 103 judges closely for signs of corruption.

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

Trial Procedures

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

Courts conducted jury trials for aggravated murder cases. Observers noted that the juror selection process was inconsistent and that judges, who deliberated with the jurors, tended to dominate the process. The government reported that there were 355 jury trials during the year, in which 461 defendants were convicted and 30 were acquitted.

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

Domestic and international human rights organizations reported numerous problems in the judicial system, including lack of access to court proceedings, lack

of access to government-held evidence, frequent procedural violations, poor explanation of rights to defendants, denial of defense counsel motions, and failure of judges to investigate allegations that authorities extracted confessions through torture or duress. Activists called for the use of juries for a wider range of trials. Lack of due process was a problem, particularly in a handful of politically motivated trials involving protests by opposition activists and in cases in which improper political or financial influence was alleged.

On January 18, a prison commission denied human rights activist Yevgeniy Zhovtis's petition for early release following an administrative reprimand for watching a the World Cup final match after "lights out." On August 2, the commission denied Zhovtis's second application for early release due to his February 10 administrative reprimand after a dispute with fellow prisoners over his ability to eat food brought in from outside the prison. Local human rights activists and international NGOs insisted that the parole denials were politically motivated and based on arbitrary administrative reprimands. In September 2009 a court had sentenced Zhovtis to four years in prison for vehicular manslaughter, stemming from a July 2009 accident in which Zhovtis struck and killed a pedestrian with his car. Local and international observers strongly criticized the trial for numerous procedural violations. Higher courts rejected two subsequent appeals. Some observers alleged that the sentence imposed on Zhovtis, a critic of the government, was harsh and politically motivated.

Political Prisoners and Detainees

Local and international human rights NGOs have asserted that the prison sentence imposed on Yevgeniy Zhovtis amounted to a politically motivated attempt to silence a vocal critic at a sensitive time. Although Zhovtis was monitored closely in prison, he was allowed to publish articles and release statements. Prison administrators approved two of his requests to leave the penal colony temporarily but did not grant him permission to work permanently outside the colony. Authorities allowed NGOs and diplomats frequent access to Zhovtis. The general prisoner amnesty signed on December 29 planned Zhovtis's release for early 2012.

Civil Judicial Procedures and Remedies

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

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

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

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

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

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

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

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

Freedom of Press: According to official statistics, the government owned 15 percent of the 3,018 media outlets. Many privately owned newspapers and television stations received government subsidies. Companies allegedly controlled by members of the president's family or loyal associates owned the majority of those broadcast media outlets that the government did not control outright. Media observers believed that most of the seven nationwide television broadcasters were owned wholly or partly by the government. Regional governments owned several frequencies, and the Ministry of Communications and Information distributed them to independent broadcasters via a tender system.

All media were required to register with the Ministry of Communications and Information, although Web sites were exempt from this requirement. The most recent government frequency tenders in 2009 and 2008 led to charges of corruption and inequity in the licensing process.

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

Violence and Harassment: Harassment of, and violence against, journalists decreased. During the year press advocacy NGO Adil Soz recorded 14 attacks on newspaper offices and journalists, compared with 20 in 2010. According to the NGO, reporters were prevented from performing their professional duties in 43 instances, compared with 46 the previous year, and journalists were denied or given significantly restricted access to public information 307 times, compared with 368 in 2010. Journalists working in opposition media and those covering corruption reported harassment and intimidation by government officials and private actors.

On March 30, unknown assailants beat *Svoboda Slova* newspaper journalist Igor Larra on his way home from work, allegedly for his reporting on striking oil workers in Zhanaozen. Police did not apprehend any suspects.

Censorship or Content Restrictions: The law enables the government to restrict media content under amendments that prohibit undermining state security or advocating class, social, race, national, or religious superiority, or cruelty and violence. Owners, editors, distributors, and journalists may be held civilly and

criminally responsible for content unless it came from an official source. The government used this provision to limit media freedom.

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

Private parties could initiate criminal libel suits without independent action by the government, and an individual filing such a suit would be able to file a civil suit as well based upon the same allegations. Officials used the law's restrictive libel and defamation provisions to constrain media outlets from publishing unflattering information. Both the criminal and civil codes contain articles establishing broad liability for libel, with no statute of limitation or maximum amount of compensation. The requirement that owners, editors, distributors, publishing houses, and journalists prove the veracity of published information, regardless of its source, promoted self-censorship at each level.

NGOs and monitors reported that libel cases against journalists and media outlets remained a problem. During the year Adil Soz cited 27 criminal and civil lawsuits filed against media outlets and journalists, compared with 85 in 2010. During the year five journalists were serving prison sentences.

Publishing Restrictions: The law prohibits publication of any statement that promotes or glorifies "extremism," a term that international legal experts said the government had not clearly defined. The government subjected media outlets willing to criticize the president directly to intimidation, such as law enforcement actions or civil suits. Although these actions had a chilling effect on media outlets, criticism of government policies continued. Incidents of local government pressure on the media continued. Journalists in western Kazakhstan reported frequent telephone calls and threats by security services and local government administrations to amend or rescind articles related to the April 3 presidential elections or national security matters.

Internet Freedom

Observers reported that the government monitored e-mail and Internet activity, blocked or slowed access to opposition Web sites, and planted progovernment

propaganda in Internet chat rooms. The state regulated the country's three Internet service providers, including the state-owned Kaztelecom. Nevertheless, Web sites expressed a wide variety of views, including viewpoints critical of the government.

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

Adil Soz reported cases of the government's blocking or restricting access to Web sites and the government's intermittent blocking of the Web site LiveJournal throughout the year, although the site remained accessible through other servers. Bloggers reported anecdotally that their sites periodically were blocked.

On August 19, a court ruling blocked the use of over 20 foreign Web sites, including the liveinternet.ru and livejournal.com Web sites, that "promoted terrorism and religious extremism," and could "incite people to commit terrorist acts and make bombs," according to a court official. Internet freedom advocates asserted that the blockages occurred without providing the domain owners an opportunity to investigate and remove content promoting violence. In a September 15 statement, the Ministry of Communications and Information claimed to have notified the blocked sites before and after the court ruling and promised to restore access once site administrators removed inappropriate content.

Throughout the year the Committee to Protect Journalists reported that the Web site of opposition newspaper *Respublika* remained inaccessible by users of Kaztelecom, the government-owned Internet service provider. Users were able to access the newspaper online by use of alternative Web addresses.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

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

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

Under the laws governing public assembly, organizations must apply to local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance. Opposition figures and human rights monitors complained that complicated and vague procedures and the 10-day notification period made it difficult for groups to organize public meetings and demonstrations, and noted that local authorities turned down many applications for demonstrations. Authorities often detained briefly and fined organizers of unsanctioned gatherings, including political party gatherings. For example, unregistered Alga party representatives reported that authorities interfered with protests to boycott the April 3 presidential election. The Kazakhstan International Bureau for Human Rights and Rule of Law recorded 102 peaceful demonstrations during the year, 93 percent of which were unsanctioned. Authorities disrupted eight demonstrations. The government designated locations for sanctioned protests in less populous city outskirts.

Kazakhstan's National Human Rights Action Plan 2009-12 noted that the country's legal norms on public gatherings at times contradicted international standards, but the government has not introduced changes foreseen in the plan. The Presidential Human Rights Commission Secretary explained on March 28 that the government stopped drafting a new law on peaceful assembly because of violent protests abroad.

Freedom of Association

The law provides for limited freedom of association. There were significant restrictions on this right in practice. Any public organization set up by citizens, including religious groups, must be registered with the Ministry of Justice, as well as with ministry branches in every region in which the organization conducts activities. The law requires public or religious associations to define their specific

activities, and an association that acts outside the scope of its charter may be warned, fined, suspended, or ultimately prohibited. Participation in unregistered public organizations may result in administrative or criminal liability, such as fines, dissolution, probation, or imprisonment.

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

On February 28, an appeals court upheld the rejection of a lawsuit filed by the Azat/National Social Democratic Party (Azat/NSDP) against the Ministry of Justice. Although both parties retain their separate registration, the ministry had refused to reregister Azat/NSDP as a joint party in June 2010 due to discrepancies between the Russian and Kazakh language versions of the party charter.

NGOs reported that the NGO registration process was straightforward, although corruption in the process was common. NGOs involved in human rights advocacy and political activities faced greater administrative delays and obstacles, although there were no reports that the government denied registration or closed organizations.

c. Freedom of Religion

See the Department of state's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

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

In-country Movement: The government required citizens and foreigners who remained in the country for more than five days to register with migration police. Foreigners who entered the country had to register at certain border posts. Registration in most of the country generally was routine; nonetheless, some foreign citizens reported that local authorities occasionally requested bribes before completing registration. Migration police routinely checked the registration of foreigners, including labor migrants, and reportedly requested bribes. Some foreigners experienced problems travelling to regions outside their registration area. June 22 amendments to the law on migration eased registration requirements for ethnic Kazakh returnees (oralmans). An August 24 agreement on the legal status of migrant workers granted an exemption for families of migrant workers from registration for a 30-day period after the worker started employment. The new migration law granted the government the authority to deport those who violate the regulations, while the previous law restricted deportation to certain cases.

During the first nine months of the year, the Ministry of Internal Affairs deported 12,644 foreigners for alleged gross violations of the visitor rules; the majority of the foreigners were citizens of countries in the Commonwealth of Independent States (CIS). Individuals facing deportation can request asylum if they fear persecution in their home country. The government required persons who were suspects in criminal investigations to sign statements that they would not leave their place of residence and detained individuals routinely for identity checks without suspicion of a criminal offense.

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

access to state secrets obtain permission from their employing government agency for temporary exit from the country.

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

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

Protection of Refugees

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

Access to Asylum: The country's laws provide for the granting of asylum or refugee status and the government has established a system for providing protection to refugees. The law does not prohibit forced exile if authorized by an appropriate government agency or through a court ruling. The UNHCR legally can appeal to the government and interfere on behalf of an individual if facing deportation. The law on refugees, which a number of regulations and by-laws implement, regulates the granting of asylum and refugee status.

Access to Basic Services: The law on refugees outlines refugee status determination (RSD) procedures and access to state services, including the right to be registered and issued documents. The Committee on Migration under the Ministry of Labor and Social Protection conducts RSD procedures. Observers stated that committee representatives suffered from lack of expertise, which the UNHCR attributed to rushed implementation of the law. While the law stipulates

that refugees have the right to education and social services, administrative regulations and prohibitive costs for services often precluded this right in practice. Authorities have formed an interministerial working group with the UNHCR to address these problems.

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

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

During the year the UNHCR reported generally cordial relations with the government in assisting refugees and asylum seekers. The government usually allowed the UNHCR access to detained foreigners to ensure proper treatment and fair determination of status. The government was generally tolerant in its treatment of local refugee populations, except for a few citizens from former Soviet republics. The government often did not allow refugees without passports or those who had entered the country illegally to register.

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

Stateless Persons

According to government statistics, 7,966 documented stateless persons resided in the country. The UNHCR estimated that the number of stateless persons was between 60,000 and 100,000. This group largely consisted of holders of Soviet passports who failed to renew their documents after independence, ethnic Kazakh repatriates, and labor migrants. Although provided with the same rights as individuals with resident permits, stateless persons reported difficulty finding legal employment and had limited access to education and health care. The UNHCR continued to work with government and parliament officials to obtain reliable data on stateless persons and improve the country's citizenship legislation.

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

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

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

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

Elections and Political Participation

Recent Elections: In December 2010, in accordance with the law, a group of government supporters initiated a petition process to replace two scheduled presidential elections with a 2011 referendum to extend President Nazarbayev's term until 2020. The referendum movement collected over 5 million signatures--well above the required 200,000-- although there were credible reports that many were obtained by coercion. The referendum bid ultimately failed and was replaced by an early presidential election.

In the April 3 election, President Nazarbayev won 95 percent of the vote with a turnout of almost 90 percent. Following the 2011 cancellation of a referendum to extend Nazarbayev's term until 2020, parliament hastily amended the constitution and election legislation to allow for the early presidential election, which had been scheduled previously for December 2012. Despite efforts by the authorities to improve the election-related legislation, the legal framework remained inconsistent with the government's commitments to the Organization for Security and Cooperation in Europe (OSCE), as well as other international standards, including excessive restrictions on candidates' eligibility--particularly the Kazakh-language fluency requirement--as well as freedoms of assembly and expression. The lack of vibrant political discourse or opposition candidates resulted in a non-competitive environment and reflected systemic restrictions on political freedom.

The OSCE election assessment cited efforts to improve the quality of the voter lists and a high degree of professionalism demonstrated by members of the CEC. International observers rated the voting process positively in 90 percent of polling stations but negatively in 10 percent. OSCE observers cited irregularities in the counting procedure in 20 percent of precincts. According to the election law, the CEC is not required to publish detailed election results, which further diminished transparency. The OSCE and some international observation missions noted systemic problems and serious irregularities, including numerous instances of seemingly identical signatures on voter lists; cases of ballot box stuffing; and proxy, multiple, and family voting, primarily caused by continued deficiencies in poll worker and voter education. Domestic observers reported significantly inflated turnout numbers, exceeding observed turnout by as much as 21 percent.

In indirect elections on August 19, local representative bodies (Maslikhats) elected 16 Nur Otan party members to the senate. The CEC reported no complaints or irregularities. Maslikhats elect 32 of 47 senate deputies, and the president appoints

15 members, with the requirement that the appointments facilitate representation of different ethnic and cultural groups.

The 2007 elections for the Mazhilis were flawed, and President Nazarbayev's Nur Otan party, which dominates local and national government bodies, received 88 percent of the vote, winning every seat in the chamber. No other party received the 7 percent of the vote then required to obtain Mazhilis seats. The 2009 amendments to the law on elections require that the party with the second-highest vote count automatically receive seats in the Mazhilis, even if it fails to reach the 7 percent threshold.

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

At year's end, there were nine registered political parties, including the opposition parties Ak Zhol, Rukhaniyat, Auyl, and the National Social Democratic Party. On October 4, a Kazakhstani court issued a six-month ban on the Communist Party of Kazakhstan because it formed an illegal alliance with the unregistered Alga opposition party.

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

The law prohibits parties established on an ethnic, gender, or religious basis.

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

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently

engaged in corrupt practices with impunity. Corruption was widespread in the executive branch, various law enforcement agencies, local government administrations, the education system, and the judiciary. The Ministry of Internal Affairs, the Financial Police, the KNB, and the Disciplinary State Service Commission are responsible for combating corruption. Opposition leaders and human rights NGOs accused the government of rampant corruption.

On August 5, a court sentenced former health minister Zhaksylyk Doskaliyev to seven years in a maximum security prison for bribery and ordered the confiscation of his property. He planned to appeal the verdict.

Lower- and middle-ranking officials and minor political figures were penalized on corruption charges. The government reported that during the first 11 months of the year, 1,799 corruption crimes were disclosed, and 24 government officials were convicted. The government issued disciplinary penalties for 758 employees for corruption. In response to 2,011 cases of corruption, the Ministry for Internal Affairs dismissed 78 police officers for corruption and convicted 18. On July 19, Supreme Court Chairman Musabek Alimbekov told the media that 24 judges had been fired for incompetence since the beginning of the year. Two judges were convicted for corruption. Authorities dismissed 61 law enforcement officers for corruption during the year.

On March 24, the government launched a program aimed at combating corruption by improving citizens' awareness of recourses against corruption and increasing confidence in state institutions by 2015.

The law mandates that the government, public associations, officials, and media outlets provide citizens with information that affects their rights and interests; in practice citizens' requests for information were not fulfilled in a timely manner. NGOs reported problems with access to information from state agencies and cited red tape, poor content on official Web sites, and long lines in state agencies. Government and public employees, including parliamentarians and their spouses, are subject to financial disclosure requirements.

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

year parliament closed public and media access to discussion of controversial legislation.

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

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

The Almaty Helsinki Commission, the Republican Network of Independent Monitors, the Charter for Human Rights, Penal Reform International (PRI), and Adil Soz were among the most active local human rights NGOs and occasionally faced difficulties in registering and acquiring office space and technical facilities. They also reported that the government audited their records and imposed various legal constraints. Multiple NGO activists reported heightened government monitoring prior to the April 3 presidential election and in advance of the parliamentary elections scheduled for January 15, 2012. In some instances government representatives misrepresented themselves to attend and monitor NGO events, although NGOs reported no pressure or interference. The government continued to participate in--and host NGOs in--roundtables and events on democracy and human rights.

NGOs affiliated with, or suspected of being affiliated with the opposition, reported harassment. For example, on September 13, a stranger threw a bucket of printer ink at two NGO activists affiliated with the opposition People's Front, and two other unknown attackers pushed one activist to the ground before fleeing. Police opened an investigation on September 15.

UN and Other International Bodies: In general, the government did not prevent international NGOs and multilateral institutions dealing with human rights from visiting the country and meeting with local human rights groups and government officials. The government cooperated with the OSCE and its field mission. The UN, the International Organization for Migration (IOM), and the Red Crescent Society also operated freely in the country.

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

Government Human Rights Bodies: The Presidential Commission on Human Rights is a consultative and advisory body that includes members from the public appointed by the president. The commission reviews and investigates complaints, issues recommendations, monitors fulfillment of international human rights conventions, and publishes annual human rights reports in close cooperation with several international organizations, such as the UNHCR, OSCE, IOM, and UNICEF. During the year the commission received 1,624 written and oral complaints, 35 percent of which addressed religious issues and 23 percent the ineffectiveness of the judicial system. The commission does not have legal authority to remedy human rights violations or implement its recommendations.

The presidentially appointed human rights ombudsman investigated complaints by citizens of violations of their rights by state agencies, although the ombudsman was not authorized to investigate complaints concerning the president, heads of government agencies, the parliament, the cabinet, the Constitutional Council, the PGO, the CEC, or the courts. The ombudsman's office has the authority to appeal to the president, cabinet, or parliament to resolve citizens' complaints; cooperate with international human rights organizations and NGOs; meet with government officials concerning human rights violations; visit certain facilities, such as military units and prisons; and publicize the results of investigations in the media. The ombudsman's office also published an annual human rights report. During the year the ombudsman's office occasionally briefed the media and issued reports discussing complaints it had investigated. The country has still not passed a separate law on the human rights ombudsman despite scheduling its consideration for the end of 2011 under the National Human Rights Action Plan. National and international NGOs and some parliamentarians regularly criticized the ombudsman's weakness.

Domestic human rights observers noted that although government human rights investigators did laudable work, particularly with less controversial social problems and issues involving lower-level elements of the bureaucracy, the ombudsman's office and the human rights commission were limited in their ability to stop human rights abuses or to punish perpetrators. The ombudsman's office

participated in an OSCE-sponsored program to strengthen the institution and facilitate the exchange of international best practices. Observers noted that the commission and the ombudsman avoided addressing underlying structural problems that led to human rights violations.

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

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

Women

Rape and Domestic Violence: The law criminalizes rape. The punishment for rape, including spousal rape, ranges from three to 15 years' imprisonment. Out of 1,023 officially reported rape cases during the first nine months of the year, authorities charged 481 persons with criminal rape and convicted 335. Under the law a prosecutor cannot initiate a rape case absent aggravating circumstances, such as gang rape, unless the victim files a complaint. Once a complaint is filed the criminal investigation cannot be dismissed if the rape victim recants or refuses to cooperate further with the investigation. This provision was intended to protect victims from coercion. There were anecdotal reports of police and judicial reluctance to act on rape and spousal rape cases.

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

NGOs maintain that the domestic violence law does not have an effective mechanism for implementation. According to NGOs domestic violence remained a serious problem. The Feminist League reported that the number of domestic violence crimes resulting in death or serious health repercussions remained similar

to that of 2010, while the number of lighter battery incidents decreased, especially in rural areas. Although official statistics were scarce, activists estimated that one in four families experienced domestic violence. During the year the government registered 78,503 crimes against women, and Union of Crisis Centers, an NGO, recorded 23,073 complaints of domestic violence. Authorities reported 684 criminal cases of domestic violence.

Police intervened in family disputes only when they believed the abuse was life threatening. According to NGO estimates, police investigated approximately 10 percent of such cases. NGOs conducted training for police officers on how to handle victims of domestic violence.

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

Although the government stated that 25 crisis centers assist women and two centers assist men, NGOs reported that the number of active centers was much smaller, likely ranging from 3 to 14. All the crisis centers received funding through government and international grants to NGOs. A number of smaller NGOs provided assistance to victims, and six of the crisis centers also provided shelter for victims of violence.

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

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children, and have the means to do so free from discrimination, coercion, or violence. Modern contraceptive methods were widely available. Women and men received equal treatment for sexually transmitted infections. Skilled personnel attended 100 percent of births, and 100 percent of women received at least one postnatal care visit, according to the Population

Reference Bureau. According to the Ministry of Health, the maternal mortality ratio was 16.4 deaths per 100,000 live births in 2011.

Discrimination: The constitution and law provide for equal rights and freedoms for men and women. In 2009 the president signed a new gender equality law that defines the terms “gender,” “gender equality,” “sexual discrimination,” and “equal opportunity” and prohibits discrimination based on gender. Yet NGOs stated that no government body assumed responsibility for implementing the legislation and that the definition of gender discrimination does not comply with international standards. More women than men are self-employed or under-employed relative to their education level. According to observers, women in rural areas faced greater discrimination than women in urban areas and suffered from a greater incidence of domestic violence, limited education and employment opportunities, limited access to information, and discrimination in their land and property rights. According to the World Bank Women Business and the Law report, women in Kazakhstan still face gender inequality obtaining work in the same industries as men and there are no laws protecting women from sexual harassment in the workplace. There are no small claims courts or fast track procedures for small claims, which puts women-owned businesses at a greater disadvantage.

Children

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

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

Child Abuse: There were increasing reports of child abuse compared with the previous year, although there was no societal pattern. NGOs estimated that more than half of all children younger than 14 experienced at least one incident of physical or psychological abuse by adults. Abuse was more common in rural areas. According to publicly available statistics, courts permanently terminated the custody rights of approximately 300 abusive parents, relocated 400 abused children to orphanages, fined 800 parents for abuse, and convicted nine parents under

criminal abuse charges. Minors who are 16 or older have the right to file petitions related to their interests directly with a court.

Sexual Exploitation of Children: The minimum age for consensual sex is not specified in any article of the criminal code, but an article provides for 5 to 10 years in prison as punishment for individuals who force underage (less than 18) boys or girls to have sexual intercourse.

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

Displaced Children: According to the Ministry of Education, more than 10,000 children were identified as “street children” during the year. According to media reports, police placed homeless children in institutions run by the Ministry of Education for delinquent and street children. There they received medical and psychological assistance before they were released or sent to orphanages. During the year authorities placed 939 street children in temporary detention and sent 719 back to their families, 55 to boarding schools, and 25 to permanent boarding schools for delinquent children.

Institutionalized Children: NGOs reported a high number of incidents of violence against children in orphanages, boarding schools, and detention facilities for delinquent children, and there were increased media reports on abuses in orphanages and other institutions. NGOs stated that half of children in orphanages or closed institutions suffered from abuse by teachers or other children. According to media reports, incidents of illegal placement of children in special correction facilities (prisons for underage criminals) and in facilities for the mentally ill occurred.

On August 9, a North Kazakhstan district court began to hear a case against Asanov Orphanage Director Bibigul Mukeyeva for failing to prevent incidents of sexual abuse committed by teenage orphans against six- and seven-year-old fellow orphans. Authorities also issued reprimands to several department of education officials for failing to act. Eight underage abusers were exempted from criminal liability and victims’ parents pardoned two others.

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

Anti-Semitism

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

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

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

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

The law requires companies to set aside 3 percent of their jobs for persons with disabilities. International and local observers noted some improvement regarding the rights of persons with disabilities. Nevertheless, there were reports that persons with disabilities faced difficulty integrating into society and finding employment. According to NGOs, 3 percent of persons with disabilities were employed, and 90 percent of employers who declined to hire persons with disabilities did so because of an applicant's disability. The law mandates access to buildings for persons with disabilities. Vice Minister of Labor and Social

Protection Assel Nusupova identified the two biggest problems facing persons with disabilities as poor infrastructure and lack of access to education. Persons with disabilities had difficulty accessing public transportation. The government did not make a concerted effort to address these problems.

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

There are no regulations regarding the rights of patients in mental hospitals; human rights observers believed this led to mass abuse of patients' rights. NGOs reported that patients often were drugged and isolated for minor infractions, and experienced poor conditions and a complete lack of privacy. In response to NGO reports, prosecutors disclosed 7,000 violations of mental patients' rights ranging from illegal institutionalization, to restricting access to information and unlawful extension of patients' stays. Prosecutors punished 45 officials as a result of the investigation. NGOs reported that orphanages for children with physical and mental disabilities were overcrowded and unsanitary, with insufficient staff to care adequately for children's needs.

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

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

National/Racial/Ethnic Minorities

The government continued to discriminate in favor of ethnic Kazakhs in senior government employment. Minorities experienced ethnic prejudice and hostility; encountered incidents of insult, humiliation, or other offenses; and were discriminated against in employment or job retention.

Ethnic Kazakh migrants (oralmans) who returned to the country from abroad experienced domestic discrimination including problems with housing, employment, and access to social services.

Kazakh is the official state language, although organizations and bodies of local self-administration officially may use Russian on an equal basis with Kazakh. The language law was intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages. By law the ability to speak Kazakh is not required for entry into the civil service, but most government agencies officially have switched to conducting business in Kazakh. Non-Kazakh speakers have protested that this is language discrimination. The Election Law requires presidential candidates to be fluent in Kazakh.

Among other forms of discrimination, critics have noted a scarcity of representatives of non-Kazakh ethnicities in the government and a reduction in the number of Russian-language schools.

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

Although there were no official statistics on discrimination or violence based on sexual orientation or gender identity, there were reports of such discrimination. Representatives of international organizations reported that negative social attitudes towards marginalized groups, including lesbian, gay, bisexual, and transgender (LGBT) persons, impeded these groups' willingness to come forward and consequently hindered their access to HIV/AIDS programs.

LGBT individuals, particularly gay men, were among the most oppressed groups, although the country does not outlaw consensual same-sex sexual activity. According to a 2009 Soros Foundation study, 64.1 percent of LGBT respondents said they did not face open discrimination in the workplace, although LGBT individuals often concealed their sexual orientation to avoid such discrimination. LGBT individuals whose sexual orientation became known publicly risked physical and verbal abuse, possible loss of work, and unwanted attention from police and authorities. A local NGO working on LGBT issues noted that new regulations have made gender reassignment more cumbersome but cited a slight improvement in public awareness of LGBT rights. Several LGBT organizations operating in the country reported that government-run HIV clinics occasionally breached confidentiality and reported patients' sexual orientation to their families and employers. Attempts to report violence against LGBT persons to law enforcement officers occasionally were met with resistance and hostility.

Other Societal Violence or Discrimination

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

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right to organize and form unions. On September 1, officials reported that 53,217 collective agreements were signed as a result of a prounion collective bargaining campaign initiated following a widely publicized 2008 mining accident in Satpayev. The campaign, designed to empower workers, has increased the number of agreements by 15 percent since 2008. As of September 1, 28.8 percent of all enterprises and 90 percent of all unionized enterprises had collective bargaining agreements. Independent union organizers described this campaign as a significant change in policy.

The law protects the rights of unions to conduct their activities without interference, and unions were free to recruit new members, conduct meetings, and bargain collectively with employers. The law permits collective bargaining and collective agreements; unions and associations engaged in collective bargaining in practice. The government continued its efforts to encourage collective bargaining. Labor unions reported 53,217 collective bargaining agreements. Activists stressed that political pressure was driving the rapid conclusion of agreements. The labor law provides that an individual contract between an employer and each employee sets the employee's wage and outlines the rights and responsibilities of the employee and the employer.

The law provides for the right to strike but exercising this right is subject to numerous legal limitations. The government limited conditions under which those working for one of a list of industries and enterprises providing essential services, such as railway, civil aviation, military, law enforcement, fire services, health, and other services that provide for major life needs where strikes were permitted only under limited conditions, could strike. In general, workers may strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. Striking workers must give 15-day advance notice to employers. The law neither sanctions nor prohibits the firing of employees for participation in an illegal strike.

Foreign workers have the right to join unions; however, the law prohibits the operation of foreign unions and prohibits the financing of unions by foreign legal entities and citizens, foreign states, and international organizations. Workers are protected by law against antiunion discrimination,

Organizers reported that the government continued to restrict the right to organize, and most workers were not able to join or form trade unions of their choice. The government exercised considerable influence on organized labor and favored state-affiliated unions over independent unions. To obtain legal status, a trade union must apply for registration with the Ministry of Justice. The registration procedure is broadly similar to that of other membership organizations.

The largest trade union association, the Federation of Trade Unions, the successor to formerly state-sponsored Soviet-era labor organizations, remained affiliated with the government. The federation united 26 industrial national unions and 13 regional unions. The industrial unions represented workers in a wide range of industries, including oil and gas, construction, textiles, education, and public health. Each union elects its own leader and has a representative on the General Council, which elects the 14-member Executive Committee. The committee runs the federation's day-to-day operations and deals with issues of social and economic protection, labor protection, organization, and international cooperation.

Union demands that are unacceptable to management may be presented to a tripartite commission composed of government, employer association, and labor union representatives. The government was supposed to be the neutral broker on the commissions, but there were cases in which it favored the interests of labor unions or employers. The tripartite commission is responsible for developing and signing annual agreements governing most aspects of labor relations. Through this mechanism, labor unions raised the minimal wage for several industries, including mining and metallurgy, and forced employers to pay back salaries in a number of industrial areas during the year. Employers occasionally used individual contracts to weaken collective bargaining power.

In practice there were reports of employers providing arbitrary justifications for firing employees who had attempted to organize strikes and there were multiple violations of the law protecting workers from antiunion discrimination. The violations ranged from threats of being fired, which would lead to the loss of social benefits, to physical intimidation and assault. Activists and trade union leaders in a variety of sectors have fallen victim to these firings, harassment campaigns, and physical attacks.

In May workers initiated three separate labor strikes at oil and gas companies in the Mangistau region. The workers, the majority of whom were drivers, at Karazhanbasmunay (KBM), OzenMunayGaz (OMG), and Yersay Caspian Contractors (Yersay) demanded an increase in salaries, a revised collective bargaining agreement, and fewer restrictions on the activities of independent labor unions. Following the resolution of the Yersay strike, the KBM and OMG strikes continued, with a dwindling number of participants estimated at 1,000. The OMG and KBM fired approximately 400 people on the legal justification that an employee can be fired if absent from work without permission for 20 days. Following a December 16 to 17 incident in which authorities shot into crowds of rioters related to the ongoing strike and other social grievances, the government established temporary municipal employment for all fired workers at their former wages. Authorities claimed to have arranged permanent employment with over 20 private companies.

During the strikes police detained three strike leaders, including Natalya Sokolova, a Russian citizen and former director of human resources at KBM. On August 8, a court convicted Sokolova of inciting social discord and sentenced her to six years in prison. The OSCE characterized the punishment as harsh and cited credible reports of due process violations, including reports that the presiding judge refused to admit into evidence a video recording in support of Sokolova's defense and denied her motions to summon witnesses.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, except at the sentence of the court or in conditions of a state of emergency or martial law; however, there were reports that such practices occurred. There were reports that some employers abused migrant workers by confiscating their passports or using debt bondage, violence, or threats of violence to compel them to work. Reports vary on the exact number of migrants annually to Kazakhstan. Estimates range from 300,000 to one million, with the majority of migrant workers coming from Kyrgyzstan, Tajikistan, and Uzbekistan. Migrant workers were primarily employed in agriculture and construction. The Ministry of Labor and Social Protection was responsible for handling issues related to migrant labor.

Also see the Department of State's *Trafficking in Persons Report* at www.state/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace. The minimum age for employment is 16. With parental permission, children who are between 14 and 16 years of age can perform light work that does not interfere with their health or education. The law also restricts the length of the workday for employees younger than 18. The government conducted labor inspections to enforce the minimum age for employment, but enforcement was uneven.

The government concluded an agreement with national employer associations that committed them to eradicate the use of forced labor and the worst forms of child labor and to develop alternative employment opportunities for children and their families. The Ministry of Education's 2007-11 Children of Kazakhstan program continued to address child labor problems. Nevertheless NGOs contended that the government's efforts were insufficient to address fully the use of child labor.

The government did not maintain statistics on child labor. NGOs and activists reported that child labor occurred in agriculture, especially during harvest season. Children were involved in growing cotton and tobacco. However, efforts by Philip Morris Kazakhstan, the sole purchaser of Kazakhstani tobacco, to eradicate child labor in its supply chain significantly reduced the numbers of migrant children in the tobacco fields and led to increased awareness among farmers and local officials. Concurrently the government improved enforcement of existing legislation to prevent child participation in the cotton harvest.

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

The Ministry of Labor and Social Protection is responsible for enforcement of child labor laws and for administrative offenses punishable by fines. The Ministry of Internal Affairs is responsible for investigating criminal offenses. During the year, the government reported no crimes related to illegal child labor. The

government cooperated with trade unions, employers, and NGOs to raise awareness and promote interagency cooperation in eliminating child labor.

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

d. Acceptable Conditions of Work

The national monthly minimum wage was 15,999 tenge (approximately \$109). It was common for working-class families to have more than one wage earner. Most workers earned above the minimum wage in urban areas. As of 2009, 8.2 percent of the population lived below the poverty line. According to the government, the poverty line is 40 percent of the subsistence level income and is currently 6,259.6 tenge (\$42.30).

The law stipulates that the normal workweek should not exceed 40 hours and limits heavy manual labor or hazardous work to no more than 36 hours a week. The law limits overtime to two hours a day or one hour a day for heavy manual labor, and requires overtime to be paid at least a 50-percent premium. Overtime is prohibited for work in hazardous conditions. The law provides that labor agreements may stipulate the length of working time, holidays, and paid annual leave for each worker.

The Ministry of Labor and Social Protection enforced minimum wages, work hours restrictions, and overtime. Ministry inspectors conducted random inspections of employers. Labor advocates reported that some employers regularly violated these laws.

The law provides for the right to safe and hygienic working conditions, but working and safety conditions in the industrial, agricultural, and construction sectors were often substandard. Workers in factories usually lacked protective clothing and worked in conditions of poor visibility and ventilation.

There were reports that management ignored regulations concerning occupational health and safety. In the first 11 months of the year, the Ministry of Labor and Social Protection reported 15,979 inspections and 21,698 violations of occupational health and safety standards and rules. In addition to inspections by the ministry, unions conducted inspections of unionized enterprises and reported their findings to authorities for investigation. The law requires employers to suspend work that could endanger the life or health of workers and to warn

workers about any harmful or dangerous work conditions or the possibility of any occupational disease. The law specifically grants workers the right to remove themselves from situations that endanger their health or safety without losing their jobs. In practice some workers, particularly in the construction industry, were not free to exercise this right without jeopardizing their employment.

During the year the government reported 2,179 workplace injuries, compared with 1,918 in 2010. The government reported 365 workplace deaths during the year, compared with 319 deaths in 2010. According to officials at the Federation of Trade Unions, many of the deaths were due to antiquated equipment, Soviet-era infrastructure, and disregard for safety regulations in the mining and metallurgy sectors. The Federation of Trade Unions' 19,000 inspectors identified 124,000 labor law violations in 2010, and referred 43 to the Ministry of Labor and 29 to court. According to the Federation, industries had 2,151 injuries and 132 workplace deaths in 2010.