

Freedom House

FREEDOM IN THE WORLD 2019 - KAZAKHSTAN

Not Free

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Key Developments:

KEY DEVELOPMENTS IN 2018:

- In July, Nazarbayev signed a decree making him chairman of the Security Council for life. The decree gave the Security Council significant constitutional powers, which could allow Nazarbayev to maintain power even if he vacates the presidency.
- In March, the government declared the opposition Democratic Choice of Kazakhstan (DVK) movement an “extremist” organization, and its supporters faced prosecution and imprisonment during the year.
- By August, 88 foreign television channels had seen their licenses revoked for failing to register with authorities under provisions of a new media law that took effect in January.
- The new media law also prohibited websites from allowing anonymous comments starting in April, further limiting free expression.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 5 / 40

A. ELECTORAL PROCESS: 1 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 0 / 4

According to the constitution, the president, who holds most executive power, is directly elected for up to two five-year terms. However, President Nazarbayev’s special status as Kazakhstan’s “first president” exempts him from term limits. In July 2018, Nazarbayev signed a decree making him chairman of the Security Council for life. The decree gave the Security Council significant constitutional powers, which could allow Nazarbayev to maintain power even if he vacates the presidency.

Presidential elections are not credible. Nazarbayev was most recently reelected in 2015 with 97.7 percent of the vote. His opponents were Turgun Syzdykov of the government-friendly Communist People’s Party of Kazakhstan, and Abulgazi Kusainov, who ran as an independent but belonged to the ruling Nur Otan party; both candidates were virtually unknown before the election. The Organization for Security and Co-operation in Europe

(OSCE) noted several major flaws in the process, including a stifling media environment, lack of a genuine opposition candidate, reports of fraud, and opaque counting and tabulation procedures.

A2. Were the current national legislative representatives elected through free and fair elections? 0 / 4

The upper house of the bicameral Parliament is the 47-member Senate, with 32 members chosen by directly elected regional councils and 15 appointed by the president. The senators, who are officially nonpartisan, serve six-year terms, with half of the 32 elected members up for election every three years. The lower house (Mazhilis) has 107 deputies, with 98 elected by proportional representation on party slates and 9 appointed by the Assembly of the People of Kazakhstan, which ostensibly represents the country's various ethnic groups. Members serve five-year terms.

Legislative elections do not meet democratic standards. Irregularities including ballot box stuffing, group and proxy voting, and manipulation of voter lists have been reported, and the ruling party benefits from a blurred distinction between it and the state. In the 2016 Mazhilis elections, Nur Otan took 84 of the 98 directly elected seats. Two other parties that are generally loyal to the president, Ak Zhol and the Communist People's Party, each secured 7 seats. No genuine opposition party was able to win representation.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 1 / 4

The legal framework is not sufficient to ensure free and fair elections, and the safeguards that do exist are not properly enforced. Electoral laws make it difficult for opposition parties to obtain parliamentary representation. Parties must clear a 7 percent vote threshold to enter the Mazhilis, and they are barred from forming electoral blocs, which prevents opposition groups from pooling votes and campaign resources. Presidential candidates must also pass a Kazakh language test with unclear evaluation criteria. Moreover, the Assembly of the People of Kazakhstan is appointed by the president at his discretion, giving the executive influence over the nine Mazhilis members chosen by the assembly.

Election laws introduced in 2017 imposed further restrictions on who can become a presidential candidate, requiring at least five years of experience in public service or elected positions and the submission of medical records. The latter rule raised the possibility that candidates could be arbitrarily disqualified for health reasons. The 2017 legal changes also banned self-nomination of presidential candidates, effectively excluding independents and requiring a nomination from a registered party or public association.

B. POLITICAL PLURALISM AND PARTICIPATION: 3 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 1 / 4

The ability of political parties to organize is heavily restricted by the 2002 Law on Political Parties. To register, a party must have 40,000 documented members, and parties based on ethnic origin, religion, or gender are prohibited. The registration process is onerous, and officials have broad discretion to delay or deny party registration in practice.

Opposition parties have also been banned or marginalized through laws against "extremism" and trumped-up criminal charges against their leaders. In March 2018, the opposition movement DVK, allegedly funded by oligarch and fugitive Mukhtar Ablyazov (who lives abroad and is wanted for embezzlement by Kazakhstan, Russia, and Ukraine), was classified as an "extremist" organization by a court in Astana and banned. DVK members and supporters have been prosecuted and imprisoned for their activities. In 2018, the activist Aset Abishev was sentenced to four years in prison in November on charges of supporting the DVK.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 0 / 4

Kazakhstan has never experienced a peaceful transfer of power through elections. Nazarbayev has been the chief executive since before the country gained independence from the Soviet Union, and he holds a special

constitutional status as “first president,” entitling him to unlimited terms in office, legal immunity, and other privileges. Genuine opposition parties hold no seats in the legislature, and the governors of regions and major cities are presidential appointees, meaning the opposition has virtually no opportunity to present itself as a credible alternative to the ruling party.

B3. Are the people’s political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 1 / 4

While voters and candidates are not subject to undue influence by the military or foreign powers, the political system is dominated a small group of elites surrounding the president and his family. The country’s politics are shaped largely by competition among these elites for resources and positions, arbitrated by the president.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 1 / 4

The legal ban on parties with an ethnic, religious, or gender focus—combined with the dominance of Nur Otan—limits the ability of women and minority groups to organize independently and advocate for their interests through the political system. The language test for presidential candidates also presents an obstacle for non-Kazakh minorities, as well as many Kazakhs. Women currently hold 27 percent of the seats in the Mazhilis and less than 11 percent of the seats in the Senate.

C. FUNCTIONING OF GOVERNMENT: 1 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 0 / 4

Government policies are determined by the executive branch, which is not freely elected, irrespective of the constitutionally defined roles of the executive, judiciary, and legislature. Nazarbayev wields ultimate power with regard to policy and other decisions. Parliament does not serve as an effective check on the executive, and instead largely provides formal approval for the government’s legislative initiatives.

However, changes to the constitution adopted by Parliament and the president in 2017 shifted some powers from the president to the Mazhilis. The amendments gave Parliament greater influence over the choice of prime minister and cabinet members, and authority to dismiss them. They also limited the president’s ability to rule by decree.

C2. Are safeguards against official corruption strong and effective? 1 / 4

Corruption is widespread at all levels of government. Corruption cases are often prosecuted at the local and regional levels, but charges against high-ranking political and business elites are rare, typically emerging only after an individual has fallen out of favor with the leadership. Journalists, activists, and opposition figures are often prosecuted for supposed financial crimes.

The extent of corruption within the government was highlighted by a series of high-profile cases in 2018. Most notably, in March, former economy minister Kuandyk Bishimbayev was sentenced to 10 years in prison for bribery and embezzlement. Bishimbayev was convicted of accepting bribes worth \$2 million while serving as chairman of the national holding company Bayterek. Analysts believe that Bishimbayev’s prosecution may be the result of an internal power struggle between high-level government officials. In October, former Almaty mayor Viktor Khrapunov and his wife were convicted in absentia of money laundering, abuse of office, and embezzlement, among other charges, and sentenced to 17 years and 14 years in prison, respectively. The pair remained in Switzerland, where they had fled to in 2008, at the end of the year. Khrapunov has insisted that the trial was politically motivated.

C3. Does the government operate with openness and transparency? 0 / 4

The government and legislature offer little transparency on their decision-making processes, budgetary matters, and other operations. The media and civil society do not have a meaningful opportunity to provide independent commentary and input on pending laws and policies. A law on public access to government information was adopted in 2015, but it is poorly implemented in practice. Officials’ asset and income declarations are not publicly available.

CIVIL LIBERTIES: 17 / 60

D. FREEDOM OF EXPRESSION AND BELIEF: 4 / 16

D1. Are there free and independent media? 0 / 4

Media independence is severely limited in Kazakhstan. While the constitution provides for freedom of the press, most of the media sector is controlled by the state or government-friendly owners, and the government has repeatedly harassed or shut down independent outlets. Libel is a criminal offense, and the criminal code prohibits insulting the president. Self-censorship is common. The authorities engage in periodic blocking of online news sources and social media platforms.

New legislation that came into force in January 2018 has further tightened the media environment. The law requires journalists to verify the accuracy of information prior to publication by consulting with the relevant government bodies or officials, obtaining consent for the publication of personal or otherwise confidential information, and acquiring accreditation as foreign journalists if they work for foreign outlets. The application of the law had a dramatic effect on broadcast media. As of August, 88 foreign television channels had their licenses revoked by the Ministry of Information and Communication for failing to comply with new registration requirements within six months of the law's implementation.

Independent media outlets continued to face legal and regulatory pressure throughout the year. In May, a judge handed down a one-year ban on the news site Ratel.kz for defying reregistration rules in its use of the Ratel.kz domain after the death of its owner, among other allegations. Prior to the ruling, in March, former finance minister Zeynulla Kakimzhanov lodged a criminal defamation suit against Ratel.kz and *Forbes Kazakhstan* for spreading false information related to their coverage of Kakimzhanov's connection to corruption cases. The offices of Ratel.kz and *Forbes Kazakhstan* were subsequently raided, equipment was confiscated, and journalists from both outlets were detained. In response, human rights defenders called on the government to drop the charges, arguing that the law was being used to harass and silence journalists.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 1 / 4

The constitution guarantees freedom of worship, and some religious communities practice without state interference. However, activities by unregistered religious groups are banned, and registered groups are subject to close government supervision. The government has broad authority to outlaw organizations it designates as "extremist."

The 2011 Law on Religious Activities and Religious Associations prohibited the distribution of religious literature outside places of worship, required the approval of all religious literature by the state, and prohibited unregistered missionary activity, among other provisions. In September 2018, amendments to the law that would impose stricter controls on religious freedom were passed by the Senate, and now await final passage by the Mazhilis. If they are approved, the amended law would further restrict attendance at religious services, prohibit religious teaching without state permission, and impose greater censorship on religious literature.

Local officials continue to harass groups defined as "nontraditional," including Protestant Christians, Jehovah's Witnesses, and Muslims who do not adhere to the government-approved version of Islam. In the first half of 2018, 79 administrative prosecutions were brought against individuals for practicing their faith. In April, a Karaganda court sentenced three alleged members of Tablighi Jamaat—an international Islamic organization banned in Kazakhstan—to three years in prison for their supposed involvement in the group.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 2 / 4

Academic freedom remains constrained by political sensitivities surrounding certain topics, including the president, his inner circle, and relations with Russia. Self-censorship on such topics is reportedly common among scholars and educators.

In April 2018, a new law was passed giving universities greater freedom to choose the content of their academic programs.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 1 / 4

Authorities are known to monitor social media, and users are regularly prosecuted on charges such as inciting social and ethnic hatred, insulting government officials, and promoting separatism or terrorism. The government's monitoring of individuals' online activities led to arrests and prosecutions in 2018. In March, for example, a woman was arrested and charged with funding an extremist organization for browsing the DVK website.

The media law that came into force in January 2018 now makes it impossible for internet users to leave anonymous comments online, further limiting free expression.

To ensure that Facebook Live videos posted by Mukhtar Ablyazov are not seen, in March the government began to throttle internet connections in the evening, which had the effect of slowing or blocking individuals' access to social media platforms including Facebook and Twitter.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 1 / 12

E1. Is there freedom of assembly? 0 / 4

Despite constitutional guarantees, the government imposes tight restrictions on freedom of assembly. Any potential public gathering requires permission from the local government administration 10 days in advance. Permits are routinely denied for antigovernment protests, and police frequently break up unsanctioned gatherings. Organizers and participants, including individuals who call for unauthorized protests on social media, are subject to fines and jail terms.

In May 2018, authorities detained dozens of people protesting against torture and human rights abuses in Almaty, Astana, and other cities. Police also took preemptive action and detained participants and journalists ahead of further planned protests in June. The spate of demonstrations were in response to calls from Mukhtar Ablyazov on Facebook to protest against the "paranoid dictatorship."

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 1 / 4

Nongovernmental organizations (NGOs) continue to operate but face government harassment when they attempt to address politically sensitive issues. There are extensive legal restrictions on the formation and operation of NGOs, including onerous financial rules and harsh penalties for noncompliance. Organizations can incur fines and other punishments for vaguely defined offenses like interfering with government activities or engaging in work outside the scope of their charters.

Prominent civil society activists often face criminal prosecution and imprisonment in retaliation for their work. In July 2018, human rights activist Yelena Semyonova was placed under investigation for "intentionally spreading false information" after testifying at the European Parliament about prison conditions in Kazakhstan. Semyonova was later barred from travelling to France in October to meet with members of the Parliamentary Assembly of the Council of Europe (PACE) to further discuss the human rights situation in Kazakhstan's prisons.

E3. Is there freedom for trade unions and similar professional or labor organizations? 0 / 4

Workers have limited rights to form and join trade unions and participate in collective bargaining, but the government is closely affiliated with the largest union federation and major employers, and genuinely independent unions face repressive actions by the authorities. The major independent trade union body, the Confederation of Independent Trade Unions (KNPRK), was dissolved in 2017, and its key leaders were later sentenced to prison for protesting the group's termination.

F. RULE OF LAW: 4 / 16

F1. Is there an independent judiciary? 1 / 4

The judiciary is effectively subservient to the executive branch, with the president nominating or directly appointing judges based on the recommendation of the Supreme Judicial Council, which is itself appointed by the president. Judges are subject to political influence, and corruption is a problem throughout the judicial system.

F2. Does due process prevail in civil and criminal matters? 1 / 4

Police reportedly engage in arbitrary arrests and detentions, and violate detained suspects' right to assistance from a defense lawyer. Prosecutors, as opposed to judges, are empowered to authorize searches and seizures. Defendants are often held in pretrial detention for long periods. Politically motivated prosecutions and prison sentences against activists, journalists, and opposition figures are common.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 1 / 4

Conditions in pretrial detention facilities and prisons are harsh. Police at times use excessive force during arrests, and torture is widely employed to obtain confessions, with numerous allegations of physical abuse and other mistreatment documented each year. In August 2018, for example, Kayrat Egimbayev died in the hospital after allegedly being tortured while incarcerated in a penal colony.

Terrorist violence remains rare, though a pair of attacks in 2016 killed some 35 people.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 1 / 4

While the constitution guarantees equality before the law and prohibits discrimination based on gender, race, and other categories, major segments of society do face discrimination in practice. Traditional cultural biases limit economic and professional opportunities for women, and the law offers no protection against sexual harassment in the workplace. Members of the sizable Russian-speaking minority have complained of discrimination in employment and education.

The LGBT (lesbian, gay, bisexual, and transgender) community continues to face societal discrimination, harassment, and violence, despite the decriminalization of same-sex sexual activity in 1998. In August 2018, LGBT activist Zhanar Sekerbayeva was fined for "minor hooliganism" for taking part in a public photo shoot in Almaty to raise awareness of issues related to menstruation—a taboo topic in Kazakhstan.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 8 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 2 / 4

Kazakhstani citizens can travel freely but must register their permanent residence with local authorities. New rules that went into effect in 2017 under the pretext of fighting terrorism require citizens to register even temporary residences lasting more than a month with local authorities or face fines. The change increases the ability of the authorities to monitor internal movement and migration, but critics also suggested that it would lead to corruption and create a black market for false registration documents.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4

While the rights of entrepreneurship and private property are formally protected, they are limited in practice by bureaucratic hurdles and the undue influence of politically connected elites, who control large segments of the economy.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

There are no significant legal restrictions on personal social freedoms, but NGOs continue to report instances of early and forced marriage, particularly in rural areas. Domestic violence is a serious problem that often goes unpunished, as police are reluctant to intervene in what are regarded as internal family matters.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

Migrant workers from neighboring countries often face poor working conditions and a lack of effective legal safeguards against exploitation. Both migrants and Kazakhstani workers from rural areas are vulnerable to trafficking for the purposes of forced labor and prostitution in large cities. The authorities reportedly make little effort to assist foreign victims of trafficking.

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