

Amnesty International Report 2016/17 - The State of the World's Human Rights - Kazakhstan

The rights to freedom of expression, of peaceful assembly and of association remained restricted. The authorities used administrative detention to stop people from participating in unauthorized protests and criminal prosecution to target social media users and independent journalists. Harsher penalties for NGO leaders – who were a separate category of offenders in the Administrative Offences and Criminal Codes – were used for the first time. New cases of torture and other ill-treatment against suspects and prisoners were reported. The large number of migrant workers in the country faced exploitation and restricted access to health care and education. One person was sentenced to death.

Freedom of assembly

Organizing or participating in a peaceful public assembly without prior authorization from the authorities was a violation under both the Administrative Offences Code and the Criminal Code, punishable by heavy fines or up to 75 days' detention. Providing “assistance” to “illegal” assemblies, including by “means of communication”, including social media, constituted a criminal offence.

In April and May, “unsanctioned” demonstrations took place across Kazakhstan as people protested peacefully against proposed changes to the Land Code to allow unused agricultural land to be leased to foreign citizens for up to 25 years. Authorities responded by blocking access to main squares and thoroughfares, and by using administrative detention to stop would-be protesters from participating.

Further Land Code protests were planned for 21 May in the capital Astana, Almaty, the largest city, and in other towns. Between 17 and 20 May, at least 34 people were arrested and charged as “organizers” of the protests after they had announced on social media their intention to participate or provided information about the demonstrations. Most were sentenced to 10-15 days' detention under the Administrative Code.

On 21 May, in Almaty, Astana and other towns, police blocked access to the areas where the demonstrations were supposed to take place. Police detained up to 500 people in Almaty, and smaller numbers elsewhere. At police stations, the detainees had to sign statements that they had participated in an unsanctioned public meeting and give their fingerprints. They were released after a few hours. On 21 May, at least 48 journalists were detained while attempting to cover the protests, according to freedom of expression NGO Adil Soz. All were released within a few hours.

Freedom of expression

Social media

Prosecutors used the Criminal Code to target activists for posts on social media.

In January, Yermek Narymbaev and Serikzhan Mambetalin were sentenced to prison terms for posting on Facebook extracts of an unpublished book which was considered offensive to ethnic Kazakhs. Their sentences were suspended on appeal. Also in January, blogger Igor Sychev's five-year prison sentence for posting a survey on another social media site on whether his town should become part of Russia was upheld on appeal.

On 28 November, prisoners of conscience Maks Bokaev and Talgat Ayan were convicted on criminal charges of "inciting social, national, clan, racial, class, or religious discord", "dissemination of information known to be false" and organizing unsanctioned meetings and demonstrations. Maks Bokaev and Talgat Ayan were both sentenced to five years' imprisonment. Their posts on Facebook and other social media platforms in April and May about the proposed changes to the Land Code and the ongoing protests formed part of the charges against them. In July, folk singer Zhanat Esentaev was convicted under the Criminal Code for posts on Facebook in relation to the Land Code protests and sentenced to two and a half years' probation.

Criminal prosecution of journalists

In May, Guzyal Baidalinova, journalist and owner of the Nakanune.kz independent news portal, was convicted of "dissemination of information known to be false" and sentenced to one and a half years' imprisonment which was converted to a suspended sentence in July. The outlet had published articles on the activities of a leading commercial bank. Nakanune.kz had been critical of the authorities.

In October, Seitkazy Mataev and his son Aset Mataev were sentenced to six and five years' imprisonment respectively on charges of embezzlement and tax evasion. Seitkazy Mataev was the chair of the Union of Journalists of Kazakhstan and the chair of the National Press Club; Aset Mataev was the General Director of KazTAG news agency. The Union of Journalists had provided support to independent journalism.

Internet

In January, changes to the Law on Communications came into force. They required internet users to download and install a "national security certificate". The certificate allowed authorities to scan communications sent over the HTTPS protocol and to block access to individual webpages with content which the authorities judged to be illegal.

Freedom of association

NGOs

Leading or participating in an unregistered organization was an offence under articles in the Criminal and Administrative Offences Codes. “Leaders” of associations were treated as a separate category of offenders, providing for harsher penalties. The definition of “leader” was broad, potentially including any active member of an NGO or other civic association. These clauses were used for the first time in 2016, including in the criminal cases against Maks Bokaev and Talgat Ayan.

Legislative changes introduced at the end of 2015 mandated the creation of a central state database of NGOs. Failure to regularly supply accurate information for the database could lead to fines or a temporary ban on activities. In February, the NGO International Legal Initiative in Almaty challenged the provision in a civil court, but lost the case. Soon afterwards, the NGO faced a lengthy tax inspection. Civil society activists were concerned that this new law placed overly broad requirements on NGOs and constrained their activities.

Religious groups

By law, religious groups were required to register with the Ministry of Justice. Membership of an unregistered religious group was an offence under the Administrative Offences Code. There were restrictions on where religious groups could hold services, with steep fines for meeting or distributing religious literature in unsanctioned premises. According to the NGO Forum 18, which promotes religious freedom, groups were fined for meeting to worship in each other’s homes. Seven Baptists in East Kazakhstan Region were fined in August.

Torture and other ill-treatment

The practice of torture and other ill-treatment continued. The Coalition of NGOs of Kazakhstan against Torture registered 163 new cases of torture and other ill-treatment between January and November 2016. Article 419 of the Criminal Code (“false reporting of a crime”) was invoked by prosecutors against those whose allegations of torture or other ill-treatment were investigated and deemed to be unfounded.

In September, a former prison officer was convicted of the rape and torture of a woman prisoner in Almaty Region and sentenced to nine years’ imprisonment. The woman had reported being gang-raped and beaten by four prison officers; she gave birth as a result of the rape. The prosecution of the other three prison officers was dropped due to lack of evidence. The one conviction secured was based on a paternity test that showed that the former prison officer had fathered the child. The case drew attention to the wider issue of sexual violence against women prisoners in places of detention.

Migrant workers’ rights

Labour migration to Kazakhstan, mainly from neighbouring Kyrgyzstan, Tajikistan and Uzbekistan, was predominantly irregular. Officials estimated that there were between 300,000 and 1.5 million migrant workers in the country, and that the number of people arriving for work in 2016 was much

higher than in 2015. Most migrant workers worked without written contracts and were vulnerable to exploitation, including having to work long hours with little or no rest time, low and irregularly paid wages, and dangerous working conditions, particularly in the agriculture and construction sectors. Many depended on their employers for housing, which was often overcrowded and of poor quality. Some employers also confiscated migrant workers' passports, leaving them in circumstances that amounted to forced labour. Migrant workers without permanent residency were unable to access free health care and faced problems enrolling their children in schools.

Kazakhstan had not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Death penalty

Kazakhstan was abolitionist for ordinary crimes, but retained the death penalty for 17 crimes that constituted terrorism-related offences or war crimes. In November, Ruslan Kulekbaev was convicted on terrorism-related charges of killing 10 people in Almaty in July and sentenced to death. He was the sixth person to be sentenced to death since President Nazarbayev signed a moratorium on executions in 2003. Since then all death sentences have been commuted to life imprisonment.

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