INDEX TO DOCUMENTATION OF COUNTRY CONDITIONS REGARDING PERSECUTION OF HIV-POSITIVE INDIVIDUALS IN KAZAKHSTAN

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<td>1.</td>
<td><strong>GOVERNMENTAL SOURCES</strong></td>
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<td></td>
<td>• “The law does not specifically prohibit discrimination with respect to employment and occupation based on sexual orientation, gender identity, HIV-positive status, or having other communicable diseases.” (p. 46)</td>
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<td>• “Prison conditions were generally harsh and sometimes life threatening, and facilities did not meet international health standards. . . . The NPM [National Preventive Mechanism] reported concerns included poor health and sanitary conditions; poor medical services, including for prisoners suffering from HIV/AIDS . . . ; discrimination against prisoners in vulnerable groups, including prisoners with disabilities and prisoners with HIV/AIDS . . . .” (p. 4)</td>
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<td>• “The law prohibits discrimination against persons with HIV and AIDS, but stigma resulted in societal discrimination that continued to affect access to information, services, treatment, and care.” (p. 40–41)</td>
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- “The law does not specifically prohibit discrimination with respect to employment and occupation based on sexual orientation, gender identity, HIV-positive status, or having other communicable diseases.” (p. 41)

- “In its April report covering activities in 2017, the NPM reported that despite some progress, problems with human rights abuses in prisons and temporary detention centers remained serious. Concerns included . . . lack of communication with families; discrimination against prisoners in vulnerable groups, including prisoners with disabilities, lesbian, gay, bisexual, transgender, and intersex (LGBTI) prisoners, prisoners with HIV/AIDS, and other persons from vulnerable groups; and a lack of secure channels for submission of complaints.” (p. 3)

- “The law prohibits discrimination against persons with HIV and AIDS, but stigma resulted in societal discrimination that continued to affect access to information, services, treatment, and care.” (p. 36–37)


- “The law does not specifically prohibit discrimination with respect to employment and occupation based on disability, sexual orientation, gender identity, age, HIV-positive status, or having other communicable diseases.” (p. 41)

- “The law prohibits discrimination against persons with HIV and AIDS, but stigma resulted in societal discrimination that continued to affect access to information, services, treatment, and care.” (p. 36)

**INTER-GOVERNMENTAL SOURCES**


- “HIV-related stigma and discrimination against people living with HIV by law enforcement, health-care workers and members of their own communities continue to stand as barriers to effective HIV epidemic control. Tradition-oriented customs, religious beliefs and gender norms that discourage discussion about sexual behaviour, even among adults, hinder successful HIV prevention and targeted testing efforts. The global HIV epidemic has always been linked to men who have sex with men, but HIV among men who have sex with men in the region is understudied. Transgender people and men who have sex with men face strong social pressure and stigma, with frequent reports of violence against community members, which also limits access to services.” (p. 1–2)
## SUMMARY

- “The most recent UNAIDS estimates show that in 2018 there were 26,000 people living with HIV in Kazakhstan . . .” *(p. 1)*


- “UNAIDS and the United Nations Development Programme (UNDP) are urging countries to keep the promises made in the 2016 United Nations Political Declaration on Ending AIDS to remove all forms of HIV-related travel restrictions. Travel restrictions based on real or perceived HIV status are discriminatory, prevent people from accessing HIV services and propagate stigma and discrimination.” *(p. 1)*

- “[]The 48 countries and territories that still have some form of HIV related travel restriction are: . . . Kazakhstan . . .” *(p. 1)*

- “Out of the 48 countries and territories that maintain restrictions, at least 30 still impose bans on entry or stay and residence based on HIV status and 19 deport non-nationals on the grounds of their HIV status. Other countries and territories may require an HIV test or diagnosis as a requirement for a study, work or entry visa.” *(p. 1)*

## NON-GOVERNMENTAL SOURCES


- “Results from the Stigma Index show that at least 20% of people living with HIV in Kyrgyzstan and 18% in Kazakhstan reported being denied health services. Healthcare workers disclosing people’s HIV status without consent is also common in many countries. Discriminatory attitudes and misconceptions about HIV are also common. For example, data suggests at least half of all adults in eight countries in the region would not buy vegetables from a shopkeeper who they knew to be living with HIV.” *(p. 11)*

- “Women in Eastern Europe and Central Asia are especially at risk of HIV due to multiple factors such as economic vulnerability, violence and difficulties in negotiating for safe sex. In extreme cases, women combine all vulnerabilities associated with drug use, sex work, social marginalisation and stigma and discrimination which prevents them from accessing HIV services.” *(p. 4)*

- “In many countries, HIV data relating to men who have sex with men is grossly under-reported, inconclusive or not reported at all. For example, HIV prevalence among men who have sex with men in Kazakhstan has been reported as low as 0.2% and as high as 20%.” *(p. 5)*

- “HIV prevalence among women who inject drugs is higher than their male counterparts in Kazakhstan, Uzbekistan, Kyrgyzstan, Belarus, and Ukraine.” *(p. 4)*
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<td>• “Kazakhstan’s Criminal Code has an HIV-specific law, Article 118, which states that putting another person at risk of contracting HIV is punishable by up to 50 days in jail, community service or a fine. The penalty is increased to up to five years when HIV is transmitted.” (p. 1)</td>
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<td>• “By the end of 2019, there had been at least five HIV-related criminal cases, many of which were recent. One highly concerning case from 2017 involved a man found criminally liable for transmitting HIV to his female partner and also, indirectly, to her child as the woman was unaware of her HIV-positive status and had breastfed the child.” (p. 1)</td>
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<td>• “There have also been a number of reports concerning the forced testing of sex workers, and tracking of sex workers and clients, which raises concerns of prosecutions should they test positive.” (p. 1)</td>
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<td>• “Feminita’s healthcare project . . . found that LBTQ women have low level of awareness about HIV and STIs and also very little access to friendly HIV centres in cities, which only cater to sex workers and men who have sex with men. Some LBTQ women are forced to pretend they are sex workers to access these centres.” (p. 2)</td>
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<td>• “To estimate where the criminal law appears to be disproportionately applied, the researchers analysed the number of known recent cases according to the estimated number of diagnosed people living with HIV in a country. They identified 15 criminalisation hotspots: countries in which the number of cases was equal to or greater than 0.5 in 10,000 per capita of diagnosed individuals[.] . . . Kazakhstan (1 in 10,000).” (p. 1)</td>
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<td>• “Their analysis suggests that recent HIV criminalisation cases do not reflect the demographics of local epidemics, with the likelihood of prosecution exacerbated by discrimination against marginalised populations on the basis of drug use, ethnicity, gender, gender identity, immigration status, sex work and/or sexuality.” (p. 1)</td>
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<td>“[W]omen are more likely to be prosecuted (and less likely to have adequate legal representation), since they are often the first in a relationship to know their status as a result of routine HIV testing during pregnancy, and are less likely to be able to safely disclose their HIV-positive status to their partner due to gendered power inequalities. Women with HIV also face the possibility of being prosecuted for passing HIV on to their child during pregnancy, birth or breastfeeding.” (p. 1)</td>
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•  | “‘The diseases that are the focus of ICAP’s work in Central Asia—mainly HIV, tuberculosis, and injecting drug use—are all closely connected with one another and have deep social roots,’ said Yelena Kudussova, the regional HIV care and treatment advisor for ICAP in Central Asia. ‘Additionally, for women, sexual and reproductive health, including pregnancy, childbirth, sexually transmitted infections (including HIV), and gender-based violence, are significant health challenges.’ Both Kudussova and Salimbayeva listed stigma and discrimination as the biggest barriers to seeking care and support.” (p. 2) |
| •  | “‘Women test for HIV at higher rates than men, and have both a higher level of adherence to HIV treatment and a quicker time to viral suppression, regardless of whether they were infected with HIV through injecting drug use or sexual transmission,’ Kudussova said. ‘But still we see that women make up no more than ten percent of patients registered with drug treatment centers for injecting drug use, and no more than 40–45 percent of those enrolled in HIV care at ICAP sites across all three countries [Kazakhstan, Tajikistan, and the Kyrgyz Republic]. Stigma and discrimination in medical facilities and in everyday life make HIV-positive women hide their status and refuse treatment and social support, so we are working to counteract this as much as possible in order to reduce these gaps.’” (p. 2) |
•  | “A 2009 evaluation of the Global Fund’s HIV project in Kazakhstan noted that ‘MSM [men who have sex with men] remain one of the hardest to reach groups with the minimal level of coverage by preventive activities.’ The report attributed the inadequate prevention interventions to ‘[n]egative and sometimes hostile attitude of the society, including medical personnel and the law enforcement agencies towards MSM, as well as self stigmatization of this group.’” (p. 4–5) |
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<td>•</td>
<td>“There is evidence of multiple discrimination on the basis of gender and HIV status and sexual orientation and HIV status. Women and girls are at increased risk of rejection by their families if their HIV status becomes known, and women living with HIV face violence, stigma, and discrimination.” (p. 223)</td>
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<td>•</td>
<td>“Stigma and prejudice towards people living with HIV has been a significant problem in Kazakhstan.” (p. 221)</td>
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<td>•</td>
<td>“Discrimination by doctors, nurses and other healthcare personnel against those living with HIV has been widely reported both in the past and in recent years, with lack of information and understanding about the disease compounding stigma.” (p. 222)</td>
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- “In Kazakhstan, a woman living with HIV from Karaganda, was taken by the police to the AIDS Center to force her to take antiretroviral medication during her pregnancy.” (p. 2) |
- “To date, the HIV Justice Network has documented prosecutions of women under HIV-specific laws criminalising alleged HIV non-disclosure, potential or perceived exposure, and non-intentional transmission in . . . Kazakhstan (2 cases) . . . . The actual number of prosecutions is certainly much higher.” (p. 1) |
- “Further, as documented by us, women in Kazakhstan, Kyrgyzstan and Tajikistan who are marginalized because they do sex work, have been disproportionately targeted by police, and found themselves subjected to forced HIV testing.” (p. 2) |
- “The criminalisation of sex work along with public characterisations of sex workers as ‘latent reservoirs for HIV’, sets sex workers up for police harassment, arrest, and unwarranted seizures in the name of public health.” (p. 2) |

ACADEMIC SOURCES


- “The People Living with HIV Stigma Index reported that one in three people living with HIV in Kazakhstan has experienced fears of gossip, 18% reported being denied medical care, and 28% . . . reported that a healthcare worker has disclosed their status without their consent.” (p. 3)
**SUMMARY**

- “This study highlights the urgent need to address stigma in the harm reduction and HIV service settings in Kazakhstan. The actionable drivers and facilitators of stigma within healthcare settings identified in this study include stigmatizing behaviors seen as normative, lack enforcement of anti-discrimination policies, lack of knowledge about the ways in which stigma manifests, and fear of HIV transmission. These findings may be used to guide an actionable model for stigma reduction in the context of harm reduction and HIV care settings in Kazakhstan.” (p. 16)

- “[T]hey found healthcare providers to be the primary perpetrators of HIV stigma in Kazakhstan, as compared to other civil servants, friends, and/or family and thus concluded with several strategic objectives to ensure PLWH [people living with HIV] live free of stigma and discrimination, the first of which is to reduce HIV-related stigma in healthcare facilities in Kazakhstan.” (p. 3)

- “Kazakhstan is experiencing one of the fastest growing HIV epidemics in the world.” (p. 2)

- “Based on this study’s findings, there is a need to address the following drivers and facilitators of stigma in this setting: fear of HIV transmission, a lack of knowledge about the ways in which stigma manifests, a lack of policy enforcement, and a culture where stigmatizing treatment of PWID [people who inject drugs]/LWH clients appears to be an acceptable social behavior.” (p. 13)

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- “The questionnaire survey shows that stigma and discrimination are serious barriers preventing NGOs from carrying out rapid HIV testing . . . .” (p. 224)

- “As a result of the conducted sociological study, we identified the most significant barriers that interfere with NGO-based rapid HIV testing procedures and are of individual, social, structural, and systematic nature: []Stigma and discrimination from the public and ‘self-stigmatization’ of PLHIV; . . . . Shortage of state funds for HIV/AIDS prevention programs.” (p. 223–24)


- “This is especially important given a recent United Nations/WHO (2011) report on HIV in Central Asia indicating that stigma and discrimination among HIV-positive women in the region are problematic and serves as a barrier to care and exacerbate ongoing risks.” (p. 1582)

- “In Kazakhstan, the largest of the Central Asian countries, the HIV incidence rate has doubled over the past decade (European Centre for Disease Prevention and Control &
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<td>• “In Kazakhstan, the largest of the Central Asian countries, the HIV incidence rate has doubled over the past decade (European Centre for Disease Prevention and Control &amp; World Health Organization [WHO], 2014).” (p. 1571)</td>
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<td>• “For HIV-positive women experiencing active N-IPV, it is possible that this type of violence also affects the ability to engage in the HIV continuum of care, for example, by feeling stigmatized, unsafe, or unable to access services.” (p. 1580)</td>
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<td>• “HIV criminalization continues: a global review has found that HIV-related arrests, investigations, prosecutions and convictions have ever occurred in at least 72 countries, with recent cases occurring in 49 countries, including 14 in which the law appeared to be applied for the first time.” (p. 2)</td>
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<td>• “To estimate where the criminal law appears to be disproportionately applied, the researchers analysed the number of known recent cases according to the estimated number of diagnosed people living with HIV in a country. They identified 15 criminalization hotspots: countries in which the number of cases was equal to or greater than 0.5 in 10,000 per capita of diagnosed individuals . . . [:] Kazakhstan (1 in 10,000).” (p. 2)</td>
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<td>• “A gay rights and women’s rights activist in Kazakhstan has been fined for taking part in a provocative photoshoot that she says was aimed at raising awareness about a taboo subject in Kazakhstan – menstruation. . . . Sekerbaeva was detained on August 15, shortly before she was due to make a presentation in Almaty about her research on HIV and health issues that impact lesbians, bisexuals, and transgender women in Kazakhstan.” (p. 1)</td>
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Dated: [DATE] Respectfully submitted,
[CITY, STATE]
[FIRM]
Pro Bono Counsel for Respondent

By: _________________________

[NAME]
[FIRM]
[ADDRESS]
[PHONE NUMBER]
[FAX NUMBER]
| Tab 1 |
EXECUTIVE SUMMARY

The Republic of Kazakhstan’s government and constitution concentrate power in the presidency. The law grants former president Nursultan Nazarbayev broad, lifetime authority over a range of government functions. The executive branch controls the legislature and the judiciary, as well as regional and local governments. Changes or amendments to the constitution require presidential consent. The Organization for Security and Cooperation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR) observation mission judged that the June 9 presidential election, in which President Kassym-Jomart Tokayev received 71 percent of the vote, was marked by election day violations, including ballot stuffing and falsification of vote counts; restrictions on the freedoms of assembly, expression, and association; and overall showed “scant respect for democratic standards.” In 2017 the country selected 16 of 47 senators and members of the parliament’s upper house in an indirect election tightly controlled by local governors working in concurrence with the presidential administration.

The Ministry of Internal Affairs supervises the national police force, which has primary responsibility for internal security. The Committee for National Security (KNB) oversees border security, internal and national security, antiterrorism efforts, and the investigation and interdiction of illegal or unregistered groups, such as extremist groups, military groups, political parties, religious groups, and trade unions. The KNB reports directly to the president, and its chairman sits on the Security Council, led by former president Nazarbayev. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included: unlawful or arbitrary killing by or on behalf of the government; torture by and on behalf of the government; political prisoners; significant problems with the independence of the judiciary; restrictions on free expression, the press, and the internet; substantial interference with the rights of peaceful assembly and freedom of association; restrictions on political participation; significant acts of corruption; trafficking in persons; and the outlawing of independent trade unions.

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

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

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

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

On September 10, the Kapshagay City Court sentenced four prisoners to additional prison terms of nine to 13 years on charges of intentional infliction of serious harm by prior conspiracy, which resulted in the death of another prisoner, Kairat Egimbayev, in August 2018. Egimbayev was severely beaten on his first day in prison by the four inmates, believed to be voluntary assistants, and taken to the hospital only two days later. Lifesaving efforts including four surgeries were not successful and Egimbayev died. Both the sentenced prisoners and the family of Egimbayev insisted that the prison authorities themselves should also be held accountable for the death.

There was one reported killing of a human rights defender. On May 29, the body of activist Galy Baktybayev, who was shot with a rifle, was found in Karaganda region’s Atasu village. A special investigation group, created at the order of the minister of the interior, detained four suspects, including one former police officer. The investigation was continued at year’s end. Baktybayev was a civil activist who raised issues of corruption, embezzlement, and other violations by local government.

b. Disappearance

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

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

The 2014 law on the National Preventive Mechanism (NPM) against Torture established the NPM as a part of the Office of the Human Rights Ombudsman, and thus it is not independent of the government. According to the Human Rights Ombudsman’s most recent report, the ombudsman received 148 complaints alleging torture, violence, and other cruel and degrading treatment and punishment in 2018. In April the Human Rights Ombudsman expressed concern about increasing reports of abuse in prisons, which he said requires a serious response. He also publicized a letter he wrote to the prosecutor general criticizing ineffective investigation of torture cases in prisons.

In its report covering activities in 2018, the latest available, the NPM reported that despite some progress, problems with human rights abuses in prisons and temporary detention centers remained serious. Some observers commented that the NPM staff lacked sufficient knowledge and training to recognize instances of torture.

As of August 6, the prosecutor general indicated 135 complaints of torture in the first six months of the year, of which 13 cases were investigated and forwarded to courts.

In July a video posted on YouTube reportedly showed officials at Zarechniy detention facility in Almaty region physically abusing prisoners. In one part of the video, officials beat a man who was suspended in the air, hanging by his arms, which were twisted behind his back. President Tokayev sent a tweet publicly ordering an investigation. In August media reported that authorities had detained seven prison officials and dismissed eight others, including the head of the prison. Minister of Internal Affairs Yerlan Turgumbayev, who oversees the penitentiary system, also visited the prison. He commented that “torture in prison is a disgrace to our penitentiary system” and stressed the importance of respecting the rights of prisoners.

On September 4, a court in Pavlodar sentenced 13 former prison officials for committing torture. The former deputy head of the prison received 12 years’ imprisonment, and the other former officials received five to six years. The case opened in 2016 after the vice president of the Pavlodar judo federation was
discovered deceased in the prison with more than 130 knife wounds on his body. During the three-year investigation, investigators discovered evidence of another death and 26 cases of torture.

**Prison and Detention Center Conditions**

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

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

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

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

To address infrastructural problems in prisons, authorities closed four prisons with the worst conditions in the first nine months of the year and eight prisons in 2018. The NPM and members of Public Monitoring Commissions (PMCs), quasi-independent bodies that also carry out monitoring, reported continuing infrastructure problems in prisons, such as unsatisfactory hygiene conditions, including poor plumbing and sewage systems and unsanitary bedding. PMC members reported that some disabled prisoners did not have access to showers for months. It also reported shortages of medical staff and insufficient medicine, as well as problems of mobility for prisoners with disabilities. In many places the NPM noted restricted connectivity with the outside world and limited access to information regarding prisoners’ rights. PRI and the NPM reported that there was
widespread concern about food and nutrition quality in prisons. Prisoners and former prisoners have complained about their provisions and reported that they were served food past its shelf life.

The government did not publish statistics on the number of deaths, suicides, or attempted suicides in pretrial detention centers or prisons during the year. PMC members reported that suicide and deaths occurred in prisons. For example, on September 17, Yevgeniy Belov, a prisoner at Pavlodar prison No. AP162/4, attempted suicide by hanging, and a week later he used a shard of glass to scratch wounds, which appeared to be a list of names, on his chest. A Penitentiary Committee spokesman said that Belov’s actions resulted from a conflict with other inmates. Belov’s mother told media that her son often complained about pressure from prison employees and that the names scratched into his chest were the employees who had harassed him and drove him to attempt suicide.

**Administration:** Authorities typically did not conduct proper investigations into allegations of mistreatment. Human rights observers noted that in many cases authorities did not investigate prisoners’ allegations of torture or did not hold prison administrators or staff accountable. The NPM’s report emphasized the problem of voluntary assistants who are used to control other prisoners. The law does not allow unapproved religious services, rites, ceremonies, meetings, or missionary activity in prisons. By law a prisoner in need of “religious rituals” may ask or his relatives may ask to invite a representative of a registered religious organization to carry out religious rites, ceremonies, or meetings, provided they do not obstruct prison activity or violate the rights and legal interests of other individuals. PMC members reported that some prisons prohibited Muslim prisoners from fasting during Ramadan. According to the NPM, prayer is permitted so long as it does not interfere with internal rules. Prayers are not allowed at nighttime or during inspections.

**Independent Monitoring:** There were no independent international monitors of prisons. PMCs, which include members of civil society, can undertake monitoring visits to prisons. Human rights advocates noted that some prisons created administrative barriers to prevent the PMCs from successfully carrying out their mandate, including creating bureaucratic delays, forcing the PMCs to wait for hours to gain access to the facilities, or allowing the PMCs to visit for only a short time. Some advocates said that the PMCs are not effective because PMCs do not have any enforcement powers and law enforcement agencies, including prisons, are not truly interested in reform.
In 2018 authorities began investigating the chair of the Public Monitoring Commission in Pavlodar, Elena Semyonova, on charges of dissemination of false information after she raised the issue of torture and mistreatment of prisoners to EU parliamentarians in early July. In December 2018 the case against Semyonova was dropped.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but the practice occurred. The government did not provide statistics on the number of individuals unlawfully detained during the year. The prosecutor general reported that from January 1, 2018 through June 30 of this year, prosecutors released 615 individuals who were unlawfully detained.

Arrest Procedures and Treatment of Detainees

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

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

Although the judiciary has the authority to deny or grant arrest warrants, judges authorized prosecutor warrant requests in the vast majority of cases.

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 2015 criminal procedure code obliges police to inform detainees concerning their rights, including the right to an attorney. Human rights observers stated that prisoners were constrained in their ability to communicate with their attorneys, that penitentiary staff secretly recorded conversations, and that staff often remained present during the meetings between defendants and attorneys.

Human rights defenders reported that authorities dissuaded detainees from seeing an attorney, gathered evidence through preliminary questioning before a detainee’s attorney arrived, and in some cases used defense attorneys to gather evidence. The law states that the government must provide an attorney for an indigent suspect or defendant when the suspect is a minor, has physical or mental disabilities, or faces serious criminal charges, but public defenders often lacked the necessary experience and training to assist defendants. Defendants are barred from freely choosing their defense counsel if the cases against them involve state secrets. The law allows only lawyers who have special clearance to work on such cases.

**Arbitrary Arrest:** The government frequently arrested and detained political opponents and critics, sometimes for minor infractions, such as unsanctioned assembly, that led to fines or up to 10 days’ administrative arrest. During the year authorities detained thousands who participated in unsanctioned antigovernment rallies, including some who happened to be passing by.

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

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

On July 4, civil activist Oksana Shevchuk was arrested and placed in pretrial detention in Almaty on charges of participating in the activities of the Democratic Choice of Kazakhstan (DCK) opposition organization, which was banned as extremist in 2018. Shevchuk, a mother of four whose youngest child was less than one year old, told media in May, “I am not a DCK activist, but I support their platform. I don’t like the situation in the country now, and I want to change everything. But here they think that if you go to a protest, you must be some sort of extremist.” In addition to participating in protests, Shevchuk spoke out in online videos as an advocate for mothers with many children and on the right to peaceful assembly. Her trial began November 6. She faced up to two years in prison.

The criminal code allows conditional release on bail, although use of bail procedures is limited. Prolonged pretrial detentions remain commonplace. The bail system is designed for persons who commit a criminal offense for the first time or for a crime of minor or moderate severity not associated with causing death or grievous bodily harm to the victim, provided that the penalties for conviction of committing such a crime contain a fine as an alternative penalty. Bail is not available to suspects of grave crimes, crimes that led to death or were committed by a criminal group, terrorist or extremist crimes, or if there is a justified reason to believe that the suspect would hinder investigation of the case or would escape, or if the suspect violated the terms of bail in the past.

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

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

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

**e. Denial of Fair Public Trial**
The law does not provide for an independent judiciary. The executive branch sharply limited judicial independence. Prosecutors enjoyed a quasi-judicial role and have the authority to suspend court decisions.

President Nazarbayev dismissed Aktau judge Malik Kenzhaliyev on February 20, Radio Azattyq reported, at Kenzhaliyev’s “own request.” Kenzhaliyev had served as the chairman of the court that on February 6 acquitted Aigul Akberdiyeva, who participated in a Telegram chat group affiliated with the banned DCK. Subsequently, the Aktau judicial ethics commission on February 7 suspended Kenzhaliyev for an ethics violation connected to a personal matter from several years prior. Kenzhaliyev responded with a public statement February 8 asserting that the real reason for his suspension was his refusal to follow his supervisor’s order to convict Akberdiyeva.

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

Corruption in the judicial system was widespread. Bribes and irregular payments were regularly exchanged in order to obtain favorable court decisions. In many cases the courts were controlled by the interests of the ruling elite, according to Freedom House’s Nations in Transit report for 2018. According to the same report, the process is not public and open as “all participants in criminal processes sign a pledge of secrecy of investigation.” Recruitment of judges was plagued by corruption, and becoming a judge often required bribing various officials, according to the Bertelsmann Stiftung’s Transformation Index report for 2018.

Judges were punished for violations of judicial ethics. According to official statistics, during the first six months of the year authorities convicted five judges for corruption crimes.

On July 12, the City Court of Aktobe convicted a judge of the Aktobe Regional Court, Zhumanali Tulenov, for corruption and sentenced him to four years’ imprisonment and a life ban on working in government offices. In 2017 he took 2.8 million tenge ($7,270) from a businessman, promising to resolve a civil case in his favor.
Military courts have jurisdiction over civilian criminal defendants in cases allegedly connected to military personnel. Military courts use the same criminal code as civilian courts.

**Trial Procedures**

The law provides for the right to a fair trial.

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

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

Observers noted the juror selection process was inconsistent. Judges exerted pressure on jurors and could easily dissolve a panel of jurors for perceived disobedience of their orders. The law has no mechanism for holding judges liable for such actions.

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

In October lawyer Tolegen Shaikov told media the government put pressure on him as a result of his advocacy on behalf of civil rights activists. Shaikov represented an individual detained for allegedly participating in an unsanctioned rally in Nur-Sultan at a hearing on October 26. He said that on October 27, he was then detained himself. According to Shaikov, police detained him for over three
hours without explanation. Authorities later told Shaikov that they had designated him as a witness in a criminal case involving a car theft, which imposed limitations on his professional activities. Shaikov stated to media he believed the case against him was fabricated to put pressure on him for defending civil activists.

Domestic and international human rights organizations reported numerous problems in the judicial system, including lack of access to court proceedings, lack of access to government-held evidence, frequent procedural violations, denial of defense counsel motions, and failure of judges to investigate allegations that authorities extracted confessions through torture or duress.

Lack of due process remained a problem, particularly for cases arising from civil activists protesting the 2019 presidential election. Many defendants were tried and sentenced the same day as their detention in late night hearings without lawyers present.

Human rights and international observers noted investigative and prosecutorial practices that emphasized a confession of guilt regarding over collection of other evidence in building a criminal case against a defendant. Courts generally ignored allegations by defendants that officials obtained confessions by torture or duress.

**Political Prisoners and Detainees**

The civil society alliance Tirek maintained a list of approximately 20 individuals it considered detained or imprisoned based on politically motivated charges. These include activist Aron Atabek, land code activist Maks Bokayev, and individuals connected to the opposition group DCK, led by fugitive banker Mukhtar Ablyazov and other individuals connected to Ablyazov. Convicted labor union leader Larisa Kharkova remained under restricted movement, unable to leave her home city without permission of authorities. Human rights organizations have access to prisoners through the framework of the National Preventative Mechanism against Torture.

Bokayev was sentenced in 2016 to five years in prison for organizing peaceful land reform protests. Although the UN Working Group on Arbitrary Detention concluded that his imprisonment was arbitrary, he remained in jail.

**Politically Motivated Reprisal Against Individuals Located Outside the Country**
Activists and media regularly note the government targets political opponents, in particular those with business or family connections to Mukhtar Ablyazov, using INTERPOL red notices. In February a German court rejected the Kazakhstani extradition request of Murat Bakrayev after he had spent five months in detention. German authorities detained Bakrayev based upon an INTERPOL red notice when he crossed from the Czech Republic, where he resides since leaving Kazakhstan in 2005. Kazakhstani authorities accused him of inciting religious hatred.

**Civil Judicial Procedures and Remedies**

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

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

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

The law provides prosecutors with extensive authority to limit citizens’ constitutional rights. The KNB, the Ministry of Internal Affairs, and other agencies, with the concurrence of the Prosecutor General’s Office, may infringe on the secrecy of private communications and financial records, as well as on the inviolability of the home. Consistent with previous years, human rights activists reported incidents of alleged surveillance, including KNB officers visiting activists and their families’ homes for “unofficial” conversations regarding suspect activities, wiretapping and recording of telephone conversations, and videos of private meetings posted on social media.

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

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

**Section 2. Respect for Civil Liberties, Including:**
a. Freedom of Expression, Including for the Press

While the constitution provides for freedom of speech and of the press, the government limited freedom of expression and exerted influence on media through a variety of means, including detention, imprisonment, criminal and administrative charges, laws, harassment, licensing regulations, and internet restrictions.

After her May visit to the country, UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism Fionuala Ni Aolain expressed deep concern at the use of counterterrorism and extremism laws to target, marginalize, and criminalize the work of civil society. “Nonviolent criticism of State policies can effectively constitute a criminal offense,” she wrote, “as the provisions on extremism and terrorism have been applied to criminalize the peaceful exercise of freedom of expression and of thought, which is incompatible with a society governed by rule of law and abiding by human rights principles and obligations.”

Journalists and media outlets exercised self-censorship to avoid pressure by the government. The law provides for additional measures and restrictions during “social emergencies,” defined as “an emergency on a certain territory caused by contradictions and conflicts in social relations that may cause or have caused loss of life, personal injury, significant property damage, or violation of conditions of the population.” In these situations, the government may censor media sources by requiring them to provide their print, audio, and video information to authorities 24 hours before issuance or broadcasting for approval. Political parties and public associations may be suspended or closed should they obstruct the efforts of security forces. Regulations also allow the government to restrict or ban copying equipment, broadcasting equipment, and audio and video recording devices and to seize temporarily sound-enhancing equipment.

Freedom of Expression: The government limited individual ability to criticize the country’s leadership, and regional leaders attempted to limit criticism of their actions in local media. The law prohibits insulting the president or the president’s family, and penalizes “intentionally spreading false information” with fines of up to 12.63 million tenge ($32,793) and imprisonment for up to seven years.

In May the Almaty City Court rejected the appeal of Almat Zhumagulov and Kenzhebek Abishev, who were sentenced to eight and seven years’ imprisonment respectively in December 2018 on charges of advocating for terrorism. Supporters
and human rights advocates called the case against them politically motivated and asserted that the video of masked figures calling for jihad that served as the primary evidence for their conviction was fabricated by the government. Zhumagulov was a supporter of the banned DCK opposition organization. Abishev, who denied any connection to DCK, was an advocate for land reform and other political issues.

On April 21, authorities arrested activists Asya Tulesova and Beibarys Tolymbekov for displaying a banner with slogans urging free and fair elections during the Almaty marathon. Both were convicted of violating the law on organizing a rally and sentenced to 15 days in jail. Amnesty International recognized the activists as prisoners of conscience.

**Press and Media, Including Online Media:** Independent media was severely limited. Many privately owned newspapers and television stations received government subsidies. The lack of transparency in media ownership and the dependence of many outlets on government contracts for media coverage are significant problems.

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

All media are required to register with the Ministry of Information and Social Development, although websites are exempt from this requirement. The law limits the simultaneous broadcast of foreign-produced programming to 20 percent of a locally based station’s weekly broadcast time. This provision burdened smaller, less-developed regional television stations that lacked resources to create programs, although the government did not sanction any media outlet under this provision. Foreign media broadcasting does not have to meet this requirement.

**Violence and Harassment:** Independent journalists and those working in opposition media or covering stories related to corruption and rallies or demonstrations reported harassment and intimidation by government officials and private actors. On July 22, a group of 20 women interfered with the work of and attacked journalists who were covering a news conference at the Kazakhstan
International Bureau for Human Rights and Rule of Law in Almaty. They entered the building before a press conference regarding three women arrested on charges of participation in the DCK banned opposition movement, including Oksana Shevchuk. Five of the women punched and attacked a journalist and others destroyed or attempted to destroy the journalists’ equipment. Police determined the incident was “arbitrary behavior” and did not press charges.

Radio Free Europe/Radio Liberty reporters Saniya Toiken and Svetlana Glushkova were separately taken to court in cases that human rights defenders called politically motivated. Toiken had been covering protests by unemployed workers in Zhanaozen in February, and Glushkova had reported on unsanctioned rallies following the transition of presidential power in March. Glushkova was found guilty of assault for allegedly pushing a 17-year-old girl during a protest in what observers called a fabricated charge.

**Censorship or Content Restrictions:** The law enables the government to restrict media content through amendments that prohibit undermining state security or advocating class, social, race, national, or religious discord. Owners, editors, distributors, and journalists may be held civilly and criminally responsible for content unless it came from an official source.

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

On October 15, Saryarka District Court No. 2 in Nur-Sultan sentenced civil activist Serik Zhakhin to one year of restricted movement and a two-year ban on using social media or participating in rallies for using social media to support DCK, which is banned as an extremist organization. Restricted movement is a probation-like penalty, with a curfew and other limitations. According to the court, Zhakhin posted information about DCK on his Facebook page. The court also ordered that he pay a fine of 20,250 tenge ($53) and perform community service. Zhakhin denied the allegations and said he was not an extremist. Zhakhin had been under pretrial detention from June 7 until his release on restricted movement.

In September 2018 Ablovas Jumayev received a three-year prison sentence on conviction of charges of inciting social discord because he posted messages critical of the government to a 10,000-member Telegram messenger group and allegedly distributed antigovernment leaflets. Jumayev denied the leafleting charges, stating
that the leaflets were planted in his car. On Telegram, he had criticized the president’s appointment of a regional police chief. On July 29, a court ruled to change Jumayev’s sentence to restricted movement and a restriction on political activism, and released him.

**Libel/Slander Laws:** The law provides enhanced penalties for libel and slander against senior government officials. Private parties may initiate criminal libel suits without independent action by the government, and an individual filing such a suit may also file a civil suit based on the same allegations. Officials used the law’s libel and defamation provisions to restrict media outlets from publishing unflattering information. Both the criminal and civil codes contain articles establishing broad liability for libel and slander, 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, encouraged self-censorship at each level.

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

On September 24, the Saryagash City Court sentenced journalist Amangeldy Batyrbekov to two years and 10 months imprisonment on charges of libel. Batyrbekov published a post on his personal social media page with the title “Idiocy in Kelesı,” criticizing the head of the local department of education. The court determined that the Batyrbekov’s post insulted the honor of the official. Domestic NGO Adil Soz called Batyrbekov a “prisoner of freedom of speech,” and international NGO Reporters Without Borders included him on its 2019 list of imprisoned journalists.

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

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

The law prohibits publication of any statement that promotes or glorifies “extremism” or “incites discord,” terms that international legal experts noted the government did not clearly define. The government subjected to intimidation media outlets that criticized the president; such intimidation included law enforcement actions and civil suits. Although these actions continued to have a chilling effect on media outlets, some criticism of government policies continued. Incidents of local government pressure on media continued.

In March authorities brought charges against Serikzhan Bilash, who led the Chinese ethnic Kazakh advocacy organization Atajurt, for inciting interethnic hatred. The basis for the charge was a video clip in which Bilash called for “jihad” against the Chinese. Bilash and his supporters said that in the full speech he immediately clarified that he meant not a violent jihad, but an informational campaign—a “jihad of words.” Faced with the likelihood of a long prison sentence, Bilash pled guilty to the offense August 16 and agreed to cease his activism, in exchange for his freedom.

**Internet Freedom**

The government exercised comprehensive control over online content. Observers reported the government blocked or slowed access to opposition websites. Many observers believed the government added progovernment postings and opinions in internet chat rooms. The government regulated the country’s internet providers, including majority state-owned Kazakhtelecom. Nevertheless, websites carried a wide variety of views, including viewpoints critical of the government.

In January 2018 amendments to the media law entered into force. The amended law prohibits citizens from leaving anonymous comments on media outlet websites, which must register all online commenters and make the registration information available to law enforcement agencies on request. As a result most online media outlets chose to shut down public comment platforms.

The Ministry of Digital Development, Innovations, and Aerospace Industry controlled the registration of “.kz” internet domains. Authorities may suspend or revoke registration for locating servers outside the country. Observers criticized the registration process as unduly restrictive and vulnerable to abuse.
The government implemented regulations on internet access that mandated surveillance cameras in all internet cafes, required visitors to present identification to use the internet, demanded internet cafes keep a log of visited websites, and authorized law enforcement officials to access the names and internet histories of users.

In several cases the government denied it was behind the blocking of websites. Bloggers reported anecdotally their sites were periodically blocked, as did the publishers of independent news sites.

The law allows the prosecutor general to suspend access to the internet and other means of communication without a court order. The prosecutor general may suspend communication services in cases where communication networks are used “for criminal purposes to harm the interests of an individual, society, or the state, or to disseminate information violating the Election Law…or containing calls for extremist or terrorist activities, riots, or participation in large-scale (public) activities carried out in violation of the established order.”

According to Freedom House’s Freedom on the Net 2019 report, where the country is listed as “not free,” “internet freedom in Kazakhstan deteriorated markedly” in the period from June 2018 to May 31, 2019, primarily in connection with unrest triggered by the presidential transition. The report noted that the government disrupted mobile internet connections, throttled access to social media, and temporarily blocked independent news websites.

During demonstrations in May and on election day, June 9, some users reported that access to the internet was intermittently, and at times completely, blocked, including access to VPN services. These outages coincided with protests in Nur-Sultan, Almaty, Shymkent, and elsewhere, eliminating the potential to livestream and share live updates from protest scenes on social media and internet news platforms. International cybersecurity NGO NetBlocks reported that these outages were consistent with in-country internet providers blocking the internet. International NGO Reporters Without Borders expressed concerns about censorship related to coverage of peaceful demonstrations. The government denied responsibility.

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

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

Academic Freedom and Cultural Events

The government generally did not restrict academic freedom, although general restrictions, such as the prohibition on infringing on the dignity and honor of the president and his family, also applied to academics. Many academics practiced self-censorship. In September the Anti-Corruption Agency started an investigation into Karaganda Buketov State University, where the head of the university was suspected of offering a $5,000 (almost two million tenge) bribe to the chairman of the Board of Scientific Fund of the Ministry of Science and Education to get support for the university’s scientific projects and other undefined favors. The investigation was ongoing at year’s end.

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The law provides for limited freedom of assembly, but there were significant restrictions on this right. The law defines unsanctioned gatherings, public meetings, demonstrations, marches, picketing, and strikes that upset social and political stability as national security threats.

The law includes penalties for organizing or participating in illegal gatherings and for providing organizational support in the form of property, means of communication, equipment, and transportation, if the enumerated actions cause significant damage to the rights and legal interests of citizens, entities, or legally protected interests of the society or the government.
By law organizations must apply to local authorities at least 10 days in advance for a permit to hold a demonstration or public meeting. 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 local authorities turned down many applications for demonstrations or only allowed them to take place outside the city center.

During and just after the presidential election from June 9-13, police detained thousands of citizens across the country, and in particular in Nur-Sultan, Almaty, and Shymkent, for taking part in peaceful, although unsanctioned opposition rallies and demonstrations critiquing the presidential election. The Interior Ministry reported detention of about 4,000 citizens, 3,000 of whom were released within three hours; 677 citizens were sentenced to short-term imprisonments (five to 15 days) and 305 were fined. According to human rights activists and media, police and special forces indiscriminately detained those in the protest areas, sometimes with bodily force, including passers-by, senior citizens, and journalists. An Interior Ministry official called the protesters “radically-minded elements trying to destabilize public order.”

**Freedom of Association**

The law provides for limited freedom of association, but there were significant restrictions on this right. Any public organization set up by citizens, including religious groups, must be registered with the Ministry of Justice, as well as with the local departments of justice in every region in which the organization conducts activities. The law requires public or religious associations to define their specific activities, and any association that acts outside the scope of its charter may be warned, fined, suspended, or ultimately banned. Participation in unregistered public organizations may result in administrative or criminal penalties, such as fines, imprisonment, the closure of an organization, or suspension of its activities.

NGOs reported some difficulty in registering public associations. According to government information, these difficulties were due to discrepancies in the submitted documents. (See section 5 regarding government restrictions on the registration of human rights organizations.)

Membership organizations other than religious groups, which are covered under separate legislation, must have at least 10 members to register at the local level and must have branches in more than one-half the country’s regions for national
registration. (See section 3 and section 7.a. for more information about political parties and labor unions, respectively.)

Under the 2015 NGO financing law, all “nongovernment organizations, subsidiaries, and representative offices of foreign and international noncommercial organizations” are required to provide information on “their activities, including information regarding the founders, assets, sources of their funds and what they are spent on…. An “authorized body” may initiate a “verification” of the information submitted based on information received in mass media reports, complaints from individuals and entities, or other subjective sources. Untimely or inaccurate information contained in the report, discovered during verification, is an administrative offense and may carry fines up to 63,125 tenge ($164) or suspension for three months if the violation is not rectified or is repeated within one year. In extreme cases criminal penalties are possible, which may lead to a large fine, suspension, or closure of the organization.

The law prohibits illegal interference by members of public associations in the activities of the government, with a fine of up to 404,000 tenge ($1,049) or imprisonment for up to 40 days. If committed by the leader of the organization, the fine may be up to 505,000 tenge ($1,311) or imprisonment for no more than 50 days. The law does not clearly define “illegal interference.”

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

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

c. Freedom of Religion

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

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

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

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

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

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

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

Not applicable.

f. Protection of Refugees

Abuse of Migrants, Refugees, and Stateless Persons: The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

There were 561 recognized refugees in the country as of July, but there were no persons recognized as refugees during the first nine months of the year. Both the number of refugee applications and the approval rate by the government declined considerably during the last two years compared with prior years.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. UNHCR legal partners may appeal to the government and intervene on behalf of individuals facing deportation. The law and several implementing regulations and bylaws regulate the granting of asylum and refugee status.

The Refugee Status Determination outlines procedures and access to government services, including the right to be legally registered and issued official documents. The Department of Migration Service of the Ministry of Internal Affairs conducts status determination procedures. Any individual located within the country who seeks asylum in the country has access to the asylum procedure. According to UNHCR, the refugee system falls short of the international standard regarding access to asylum procedures and access to the territory of Kazakhstan. Authorities remain reluctant to accept asylum applications at the border from persons who lack valid identity documents, citing security concerns. A person, however, who crosses the border illegally may be prosecuted in criminal court, and subsequently may be viewed as a person with criminal potential, a negative factor in the asylum decision.

In October 2018 migration authorities rejected the asylum claim of Sayragul Sauytbay, an ethnic Kazakh Chinese national, because she had not shown that she was persecuted while living in Xinjiang, China. Sauytbay subsequently appealed
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the rejection of her asylum through the courts, which had not made a final decision when she left Kazakhstan to seek asylum in Sweden in June.

A legislative framework does not exist to manage the movement of asylum seekers between the country’s borders and authorities in other areas. There are no reception facilities for asylum seekers. The government does not provide accommodation, allowances, or any social benefits to asylum seekers. The law does not provide for differentiated procedures for persons with specific needs, such as separated children and persons with disabilities. Asylum seekers and refugees with specific needs are not entitled to financial assistance. There are no guidelines for handling sensitive cases, including lesbian, gay, bisexual, transgender, and intersex (LGBTI) cases.

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

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

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

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

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

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

**g. Stateless Persons**

The constitution and law provide avenues to deal with those considered stateless, and the government generally took seriously its obligation to ease the burden of statelessness within the country. The country contributes to statelessness because application for Kazakhstani citizenship requires renunciation of citizenship of the country of origin, with no guarantee that Kazakhstani citizenship will be granted. As of July 1, 7,476 persons were officially registered by the government as stateless. The majority of individuals residing in the country with undetermined nationality, with de facto statelessness, or at heightened risk of statelessness, are primarily those who have no identity documents, have invalid identity documents from a neighboring CIS country, or are holders of Soviet-era passports. These individuals typically resided in remote areas without obtaining official documentation.

A 2017 law allows the government to deprive Kazakhstani citizenship to individuals convicted of a range of grave terrorism and extremism-related crimes, including for “harming the interest of the state.” According to UNHCR and the government, no one has yet been deprived of citizenship under this law. Instead, during the year the government repatriated hundreds of Kazakhstanis who joined international terrorist organizations and their families, prosecuting the fighters in criminal court and providing social services to family members.

According to UNHCR the law provides a range of rights to persons recognized by the government as stateless. The legal status of officially registered stateless persons is documented and considered as having permanent residency, which is granted for 10 years in the form of a stateless person certificate. According to the law, after five years of residence in the country, stateless persons are eligible to apply for citizenship. Children born in the country to officially recognized stateless persons who have a permanent place of residence are recognized as nationals. A legal procedure exists for ethnic Kazakhs; those with immediate relatives in the country; and citizens of Ukraine, Belarus, Russia, and Kyrgyzstan, with which the country has agreements. The law gives the government six months
to consider an application for citizenship. Some applicants complained that, due to the lengthy bureaucratic process, obtaining citizenship often took years. In summary the law does not provide a simplified naturalization procedure for stateless persons. Existing legislation prevents children of parents without identity documents from obtaining birth certificates, which hindered their access to education, free health care, and freedom of movement.

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

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

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

Section 3. Freedom to Participate in the Political Process

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

Although the 2017 constitutional amendments increased legislative and executive branch authority in some spheres, the constitution concentrates power in the presidency itself. The president appoints and dismisses most high-level government officials, including the prime minister, cabinet, prosecutor general, the KNB chief, Supreme Court and lower-level judges, and regional governors. A presidential decree signed October 9 requires most of these appointments to be made in consultation with the chairman of the Security Council, a position that was granted in 2018 to then president Nazarbayev for his lifetime.

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

The Mazhilis (the lower house of parliament) must confirm the president’s choice of prime minister, and the Senate must confirm the president’s choices of prosecutor general, the KNB chief, Supreme Court judges, and National Bank head. Parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president’s consent.

Elections and Political Participation

Recent Elections: President Nursultan Nazarbayev stepped down on March 20 and, under the constitution, the presidency immediately passed to the chairman of the Senate, Kassym-Jomart Tokayev. Thereafter, the government conducted presidential elections on June 9. Out of seven presidential candidates, Tokayev won with 70.96 percent of the vote. Amirzhan Kossanov, an opposition candidate, got 16.23 percent. According to ODIHR’s report, the election “offered an important moment for potential political reforms, but it was tarnished by clear violations of fundamental freedoms as well as pressure on critical voices.” ODIHR noted in its report a number of violations, such as ballot-box stuffing and problems with vote counting, including cases of deliberate falsification. Other issues included lack of transparency, such as by not releasing election results by polling station, and violations of the rights of assembly, expression, and association. Another issue ODIHR raised was the widespread detentions of peaceful protesters on election day in major cities. Overall, the conduct of the election showed “scant respect for democratic standards.”

ODIHR further observed that the problems went beyond election day itself. According to the final report, in recent years some opposition parties have either been banned or marginalized through restrictive legislation or criminal prosecution, and the ability of new political parties to register is significantly restricted by the Law on Political Parties. Moreover, the legal framework for candidate eligibility was highly restrictive. ODIHR also noted that 2017 constitutional and legislative amendments abolished self-nomination and introduced further eligibility requirements that significantly reduced the candidate pool, with requirements for education, residency, and experience in the civil service or elected government office.
The most recent elections to the Mazhilis, the lower house of parliament, took place in 2016. Ruling Nur Otan party won 84 seats, Ak Zhol won seven seats, and the Communist People’s Party won seven seats. ODIHR noted irregularities and limitations on civil and political rights.

Of the 47 members of the Senate, 16 were selected by members of maslikhats—local representative bodies—acting as electors to represent each administrative region and the cities of national significance, Astana (now Nur-Sultan) and Almaty. Four incumbent senators were re-elected, and the majority of the newly elected senators were affiliated with the ruling Nur Otan Party.

In June 2018 the government amended the election law. One change reduced the independence of local representative bodies (maslikhats). Previously, citizens could nominate and vote for candidates running in elections for the maslikhats. Under the amended law, citizens vote for parties and parties choose who sits on the maslikhats.

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

On June 7, the deputy prosecutor general reported that three individuals and four organizations had been fined for conducting unauthorized public opinion surveys on the internet and social media during the election campaign period. On May 30, the publishing house “Exclusive” was fined 75,750 tenge ($197) after conducting a poll on its YouTube channel and publishing the results on its Exclusive.kz website.

Political Parties and Political Participation: The government required political parties to have 40,000 signatures for registration, with a minimum of 600 from each region. If authorities challenge the application by alleging irregular signatures, the registration process may continue only if the total number of eligible signatures exceeds the minimum number required. The law prohibits parties established on an ethnic, gender, or religious basis. The law also prohibits
members of the armed forces, employees of law enforcement and other national security organizations, and judges from participating in political parties.

To register, a political party must hold a founding congress with a minimum attendance of 1,000 delegates, including representatives from two-thirds of the oblasts and the cities of Nur-Sultan, Shymkent, and Almaty. Parties must obtain 40,000 signatures, with at least 600 signatures from each region and the cities of Nur-Sultan, Shymkent, and Almaty, registration from the CEC, and registration from each regional election commission. 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 seven political parties registered, including Ak Zhol, Birlik, and the People’s Patriotic Party “Auyl” (merged from the Party of Patriots of Kazakhstan and the Kazakhstan Social Democratic Party). The parties generally did not oppose Nur Otan policies.

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 or minorities in politics.

Section 4. Corruption and Lack of Transparency in Government

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

Corruption: Corruption was widespread in the executive branch, law enforcement agencies, local government administrations, the education system, and the judiciary, according to human rights NGOs. In 2018 the president signed into law a set of amendments to the criminal legislation mitigating punishment for a variety of acts of corruption by officials, including decriminalizing official inaction, hindrance to business activities, and falsification of documents; significantly reducing the amounts of fines for taking bribes; and reinstituting a statute of limitation for corruption crimes.
The Ministry of Internal Affairs, the Agency on Combatting Corruption, the KNB, and the Disciplinary State Service Commission are responsible for combating corruption. The KNB investigates corruption crimes committed by officers of the special agencies, anticorruption bureau, and military. According to official statistics, 1,682 corruption-related offenses were registered during the first seven months of the year. The most frequent crimes were bribery (50 percent) and abuse of power (30 percent). The government charged 374 civil servants with corruption, and 873 cases were submitted to courts.

On August 22, the Mangystau Criminal Court convicted former deputy governor of Mangystau region Serik Amangaliyev of taking a bribe on a large scale and sentenced him to 10 years of imprisonment and a lifetime ban on government service. According to the court, in November 2018 Amangaliyev was detained at the Aktau airport with 115,000 euros, part of a 400,000 euros bribe from a representative of a Czech construction company who had asked Amangaliyev to select his company for a project.

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

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

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

In recent years the government refused three applications from Atajurt, an advocacy organization for the rights of ethnic Kazakhs in China, to register. Each time, the stated basis for refusal was errors in Atajurt’s paperwork. In February the government fined Serikzhan Bilash 252,000 tenge ($654) for leading an
unregistered organization. In September, Atajurt filed a claim in the Medeu district court of Almaty against the Ministry of Justice for its refusal to register the group. On September 25, the Ministry approved Atajurt’s registration under different leadership. As reported above, Bilash signed a plea agreement in connection with his criminal case for incitement of discord that banned him from political activism.

Feminita, an LGBTI initiative, submitted three applications to the Ministry of Justice to register as a legal entity after its establishment in 2017. Each application was refused, most recently in January, on the basis that the organization’s charter does not comply with the law on noncommercial organizations. After the third refusal, Feminita’s founders filed suit against the ministry, arguing that its failure to allow them registration violated their right to freedom of association and was discriminatory. On May 27, Medeu District Court in Almaty upheld the ministry’s refusals, concluding that the objectives in Feminita’s charter do not strengthen “spiritual and moral values” and “the role of the family” in society. On September 3, an Almaty appeals court affirmed this decision.

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

The United Nations or Other International Bodies: The government invited UN special rapporteurs to visit the country and meet with NGOs dealing with human rights. The government generally did not prevent other international NGOs and multilateral institutions dealing with human rights from visiting the country and meeting with local human rights groups and government officials. National security laws prohibit foreigners, international organizations, NGOs, and other nonprofit organizations from engaging in political activities. The government prohibited international organizations from funding unregistered entities.

Government Human Rights Bodies: The Presidential Commission on Human Rights is a consultative and advisory body that includes top officials and members of the public appointed by the president. The commission reviews and investigates complaints, issues recommendations, monitors fulfillment of international human rights conventions, and publishes reports on some human rights issues in close cooperation with several international organizations, such as UNHCR, the OSCE,
the International Organization for Migration, and UNICEF. The commission does not have legal authority to remedy human rights violations or implement its recommendations in the reports.

The Ministry of Foreign Affairs-led Consultative Advisory Body (CAB) for dialogue on democracy, human rights, rule of law, and legislative work continued to operate during the year. The CAB includes government ministries and prominent international and domestic NGOs, as well as international organization observers. The NGO community generally was positive regarding the work of the CAB, saying the platform enabled greater communication with the government regarding issues of concern, even if the CAB did not always produce results.

The Human Rights Ombudsman is nominated by the president and approved by the senate. He also serves as the chair of the Coordinating Council of the National Preventive Mechanism against Torture.

The ombudsman did not have the authority to investigate complaints concerning decisions of the president, heads of government agencies, parliament, cabinet, Constitutional Council, Prosecutor General’s Office, CEC, or courts, although he may investigate complaints against individuals. The ombudsman’s office has the authority to appeal to the president, cabinet, or parliament to resolve citizens’ complaints; cooperate with international human rights organizations and NGOs; meet with government officials concerning human rights abuses; visit certain facilities, such as military units and prisons; and publicize in media the results of investigations. The ombudsman’s office also published an annual human rights report. During the year the ombudsman’s office occasionally briefed media and issued reports on complaints it had investigated.

Domestic human rights observers indicated that the ombudsman’s office and the Human Rights Commission were unable to stop human rights abuses or punish perpetrators. The commission and ombudsman avoided addressing underlying structural problems that led to human rights abuses, although they advanced human rights by publicizing statistics and individual cases and aided citizens with less controversial social problems and issues involving lower-level elements of the bureaucracy.

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

Women
**Rape and Domestic Violence:** The law criminalizes rape as a medium-gravity crime. The punishment for conviction of rape, including spousal rape, ranges from three to 15 years’ imprisonment. There were reports of police and judicial reluctance to act on reports of rape, particularly in spousal rape cases.

On July 26, a Kostanay city court sentenced two train conductors, Zhates Umbetaliyev and Kolkhanat Kurmaniyazov, to 2.5 years in jail for raping a female passenger in September 2018. The victim had been travelling alone in a high-speed rail train compartment. The incident and light penalty sparked outrage among citizens on social networks and prompted a #MeTooTalgo movement among other victims. As a result, the railway company leadership sent a letter to the prosecutor general condemning the actions of the train conductors and requesting punishment appropriate to the gravity of the crime, and members of parliament called for amendments to harshen the penalties for sexual violence.

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

NGOs estimated that on average 12 women each day were subjected to domestic violence and more than 400 women died annually as a result of violence sustained from their spouses. Due in part to social stigma, research conducted by the Ministry of National Economy indicated that a majority of victims of partner abuse never told anyone of their abuse. Police intervened in family disputes only when they believed the abuse was life-threatening. Police often encouraged the two parties to reconcile. NGOs also noted that the lenient penalty for domestic violence--an administrative offense with a maximum penalty of 15 days imprisonment--does not deter even convicted offenders.

On August 2, the Almaty City Court placed Baurzhan Ashigaliyev under pretrial arrest for two months on charges of deprivation of freedom and assault against his wife, well known singer Kseniya Ashigaliyeva. According to Ashigaliyeva, her
husband of seven years regularly beat her, but previous reports to police had resulted in no change in his behavior and no penalty to him. On July 28, he abducted Ashigaliyeva off the street, tied her up in the basement of a building, and beat her severely. Ashigaliyeva turned to police and also the “NeMolchi” ("Speak Out") movement for help, asking the organization to raise awareness of her case and share photographs of her injuries on the internet in order to reduce stigma against speaking out about domestic violence. The investigation was ongoing at year’s end.

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

Other Harmful Traditional Practices: Although prohibited by law, the practice of kidnapping women and girls for forced marriage continued in some remote areas. The law prescribes a prison sentence of eight to 10 years for conviction of kidnapping. A person who voluntarily releases an abductee is absolved of criminal responsibility; because of this law, a typical bride kidnapper is not necessarily held criminally responsible. Law enforcement agencies often advised abductees to sort out their situation themselves. According to civil society organizations, making a complaint to police could be a very bureaucratic process and often subjected families and victims to humiliation.

In October the Dzhetyusu District Court of Almaty convicted three men of kidnapping an underage girl and sentenced each to seven years of restricted movement. According to the court, in August, a young man with the help of two friends organized the girl’s kidnapping. Earlier, the girl rejected his advances. He decided to track her down, kidnap her, and marry her. The three men grabbed her near her home as she was walking with her niece and forced her into their car. The victim managed to escape while they were driving on a busy road. All three defendants pleaded guilty. The victim told the court she forgave the culprits and asked that they not be put in prison.

Sexual Harassment: Sexual harassment remained a problem. No law protects women from sexual harassment, and only force or taking advantage of a victim’s physical helplessness carries criminal liability in terms of sexual assault. In no instance was the law used to protect the victim, nor were there reports of any prosecutions. Victims of sexual harassment in the workplace were hesitant to lodge complaints out of shame or fear of job loss.
In March 2018 a group of NGOs and media activists set up Korgau123, an organization to support victims of harassment, and launched a hotline.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

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

Children

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

Child Abuse: School violence was a problem, and experts estimated two of three schoolchildren suffered or witnessed violence. Violence and abuse were particularly serious in boarding schools, foster homes and orphanages, and detention centers. An estimated 17,000 to 18,000 children suffered from either psychological or physical abuse by their parents. According to UNICEF, more than 75 percent of the public supported the use of corporal punishment for disciplining children, and children faced violence at home, schools, children’s group homes, and on the street. Children who were victims of such violence did not have easy access to adequate complaint mechanisms.

There were reports of selling newborn babies.

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

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

The law criminalizes the production and distribution of child pornography and provides administrative penalties to cover the sale of pornographic materials to minors. The country retains administrative penalties for child pornography. Perpetrators convicted of sexual offenses against minors receive a lifetime ban on working with children.

**Displaced Children:** Human rights observers noted that the number of street children, mainly in large cities, was high. According to the Children’s Ombudsman, the number of street children was increasing. The Children’s Rights Protection Committee reports that 1,805 street children, 219 orphans, 45 delinquent children and 19 children from problematic families were referred to Centers for Delinquent Children in the first half of the year. Of the total, 1,810 were returned to their families. The remaining children were sent to orphanages (199), foster families (28), or correctional boarding schools (seven).

**Institutionalized Children:** Incidents of child abuse in state-run institutions, such as orphanages, boarding schools, and detention facilities for delinquent children, were “not rare,” according to government sources. NGOs stated one-half the children in orphanages or closed institutions suffered from abuse by teachers or other children. According to the Children’s Rights Protection Committee, the number of orphans who lived in orphanages decreased from 6,223 in 2017 to 5,006 in 2019. The rest of the 19,867 orphan children were in foster or other home care. Since 2019, NPM members may conduct monitoring at all children’s institutions. NGOs and government representatives alike condemned the conditions in detention facilities for delinquent children and commented that the primary solution to problems like truancy and minor delinquency should not be removal of the child from the home.

In August media reported about gross neglect of orphans with disabilities at the Rudny Infant Home in Kostanay region. According to reports, the children were
identified numerically rather than by name and held in poor sanitary conditions. The children had bedsores, in some cases had no clothes, and were rarely taken outside. After the reports the director of the Infant Home was removed from his post and the Kostanay region governor ordered that the children be moved to another orphanage.


Anti-Semitism

Leaders of the Jewish community estimated that the country’s Jewish population was approximately 10,000. They 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 [https://www.state.gov/trafficking-in-persons-report/](https://www.state.gov/trafficking-in-persons-report/).

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, and access to health care, and in the provision of other government services, but significant discrimination existed. The government took steps to remedy some barriers to persons with disabilities, including providing access to information. NGOs stated implementation of the law on disability was lacking.

The law requires companies to set aside 3 percent of their jobs for persons with disabilities, and the government enacted high-level enforcement measures to enhance economic opportunities as part of the president’s strategy 2050; nevertheless, there were reports persons with disabilities faced difficulty integrating into society and finding employment. The government identified the two biggest barriers facing persons with disabilities as poor infrastructure and lack of access to education, while persons with disabilities expressed difficulty accessing public transportation.
In a 2018 report, Human Rights Watch determined that a majority of children with disabilities were not receiving quality inclusive education as required by the country’s commitments under the Convention on Persons with Disabilities. According to the report, the education system segregates and isolates children with disabilities. Most children are taught in separate classrooms with other children with disabilities. Thousands are in special schools for children with disabilities, often far from their homes. Others are educated at home, with a teacher visiting for a few hours per week. Children in closed psychiatric institutions receive very little or no education. Local NGOs similarly reported a very low rate of children with special needs attending school.

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

Human rights observers noted multiple types of discrimination against persons with disabilities; some airlines refused to sell tickets to persons with disabilities seeking to travel alone and insisted that they should be escorted by assistants; doctors discouraged women who use wheelchairs from having children; and treatment of prisoners with disabilities in detention facilities remained a serious problem.

The government did not legally restrict the right of persons with disabilities to vote and arranged home voting for individuals who could not travel to accessible polling places. Election monitoring NGO Yerkindik Kannaty reported positive cooperation with the CEC on implementing requirements for access to polling stations for people with special needs. The NGO observed that more polling stations were accessible during the year compared with the 2016 elections.

There are no regulations regarding the rights of patients in mental hospitals. Human rights observers believed this led to widespread abuse of patients’ rights. NGOs reported that patients often experienced poor conditions and a complete lack of privacy. Citizens with mental disabilities may be committed to state-run institutions without their consent or judicial review, and the government committed young persons under the age of 18 with the permission of their families.

According to an NPM report, most of the hospitals required extensive renovations. Other problems observed included shortage of personnel, unsatisfactory sanitary conditions, poor food supply, overcrowding, and lack of light and air.
Members of the NPM may visit mental hospitals to monitor conditions and signs of possible torture of patients, but any institutions holding children, including orphanages, were not on the list of institutions NPM members may visit.

**National/Racial/Ethnic Minorities**

Kazakh is the official state language, although Russian has equal status as the language of interethnic communication. The law requires presidential candidates to be fluent in Kazakh. The constitution prohibits discrimination based on language, but all prospective civil servants are required to pass a Kazakh language exam.

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

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

Although gender reassignment documentation exists, the law requires a transgender person to fulfill psychiatric and physical requirements before being able to receive identity documents that align with the person’s outward gender. Many individuals lived with nonconforming documents for years and reported problems with securing employment, housing, and health care.

There were no prosecutions of anti-LGBTI violence, although one investigation was ongoing in September. There were reports of anti-LGBTI violence, but there were no government statistics on discrimination or violence based on sexual orientation or gender identity. According to a 2017 NGO survey within the LGBTI community, 48 percent of respondents experienced violence or hate because of their sexual orientation, and 56 percent responded they knew someone who suffered from violence. The most frequent forms of abuse were verbal insults, harassment, interference in private life, and physical assaults.

NGOs reported members of the LGBTI community seldom turned to law enforcement agencies to report violence against them because they feared hostility, ridicule, and violence. They were reluctant to use mechanisms such as the national commissioner for human rights to seek remedies for harms inflicted because they
did not trust these mechanisms to safeguard their identities, especially with regard to employment.

On September 25, the Nur-Sultan police reported that two men were under pretrial detention for the investigation of sexual assault, beating, and extortion of a 21-year-old gay man in July. A medical examination showed that the young man sustained a head injury, broken bones, and numerous wounds and bruises, including burns. The investigation was ongoing at year’s end. According to the media, in July, two men locked the young man in an apartment and raped and assaulted him. The perpetrators then called his parents and relatives extorting money for his life. He managed to escape from the apartment and called police. Activists told media that beating, extortion, and harassment of LGBTI individuals was not uncommon, although typically unreported.

On July 30, the Supreme Court ruled in favor of a lesbian couple, finding an Almaty man guilty of violating their right to privacy. In January 2018 Eldar Mamedov posted on Facebook a video of two women kissing at a movie theater. The video soon went viral, with many negative remarks and threats to the women. Under local law, video cannot be publicized without the consent of the subjects. The women filed a case against Mamedov with the Almaty district court, which ruled in their favor. On appeal, however, the court overturned the decision, describing the behavior of the women as “immoral” and stating that local society “is not ready for open sexual relations between same-sex couples.” On further appeal, the Supreme Court reversed the appeals court decision and determined that the lower court violated the constitutional rights of the women.

In July, Victoria Berkkhodjayeva, a transgender woman serving a sentence in Zhaugashty, Almaty region, told authorities that in July she had been raped three times by a KNB officer. Berkkhodjayeva reported the incident to the Prosecutor General’s Office and to the Anti-Corruption Agency. Almaty region police launched an investigation into the case. In August media reported that a key witness in the case was engaged in a hunger strike to protest pressure put on her by prison authorities in connection with the case. In October media further reported that authorities had placed the KNB officer suspected of rape under arrest based on the results of forensic tests. The investigation was ongoing at year’s end.

**HIV and AIDS Social Stigma**

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

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for workers’ right to unionize, but limits workers’ freedom of
association. The trade union law amended in 2017 restricts workers’ freedom of
association by requiring existing independent labor unions to affiliate with larger,
progovernment unions at the industry, sector, or regional level and by erecting
significant barriers to the creation of independent unions.

In 2017 a southern regional court cancelled the registration of the Confederation of
the Independent Trade Unions of Kazakhstan (CITUK), ordering its liquidation
and removal from the national register. The Federation of Trade Unions of the
Republic of Kazakhstan (FTUK) is the successor to state-sponsored Soviet-era
labor organizations and the largest national trade union association, with
approximately 90 percent of union members on its rolls. The government
exercised considerable influence on organized labor and favored state-affiliated
unions over independent ones. Critics charged that the FTUK was too close to the
government to advocate for workers effectively, was biased in favor of large
employers and oligarchs, and that the law helped the FTUK in its unfair
competition against independent labor unions.

In May 2018 the former chair of the Oil Construction Company (OCC) Trade
Union, Amin Yeleussinov, who was sentenced to two years in prison in January
2017, was released on parole. Nurbek Kushakbaev, vice-chairperson of CITUK
who was sentenced to two and a half years in April 2017, was also released on
parole in May 2018. Civil society organizations called for their convictions--as
well as that of former chairman of CITUK, Larisa Kharkova--to be vacated.

On July 17, a court in Shymkent sentenced Yerlan Baltabay, the leader of an
independent union of petrochemical workers, to seven years’ imprisonment on
charges of embezzlement of union dues. Human rights observers noted the
parallels between Baltabay’s case and the investigation and ultimate conviction of
Larisa Kharkova in 2017 and asserted that Baltabay was also targeted for his
independent labor union activism. Baltabay appealed to the president for pardon,
admitting his guilt and promising to compensate inflicted damages, and President
Tokayev granted pardon on August 10. On September 23, Baltabay published an
open letter on the website of the Human Rights Bureau, reasserting his innocence in the case and stating that he had only asked for pardon at the urging of the KNB. Baltabay did not repay the claimed damages and authorities returned him to prison on October 16.

The law provides for the right of workers to bargain collectively. The law prohibits antiunion discrimination, and a court may order reinstatement of a worker fired for union activity. Penalties for violations of these provisions included fines and imprisonment of up to 75 days, but these penalties did not deter violations. According to the Ministry of Labor and Social Protection, as of March, 94.2 percent of large and medium enterprises had collective agreements. Earlier statistics showed that 33.4 percent of all working enterprises had collective agreements. FTUK reported in February that 31.2 percent, or two million out of 6.4 million employees, were members of trade unions in 2018.

The law provides for the right to strike in principle but imposes onerous restrictions that make strikes unlikely. For example, the right to strike may be granted only after the dispute is brought to a reconciliatory commission for consideration. In addition, by law there are a variety of circumstances in which strikes are illegal. A blanket legal restriction bars certain occupations from conducting a strike. Military and other security service members, emergency medical, fire, and rescue crews, as well as those who operate “dangerous” production facilities are forbidden to strike. By law such strikes are illegal.

Workers employed in the railway, transport and communications, civil aviation, healthcare, and public utilities sectors may strike, but only if they maintain minimum services, do not interrupt nonstop production processes (such as metallurgy), and leave key equipment unaffected. Numerous legal limitations restrict workers’ right to strike in other industries as well. Generally, workers may not strike unless a labor dispute cannot be resolved through compulsory arbitration procedures. Decisions to strike must be taken in a meeting where at least one-half of an enterprise’s workers are present. A written notice announcing a strike must be submitted to the employer at least five days in advance.

Employers may fire striking workers after a court declares a strike illegal. The law also enables the government to target labor organizers whose strikes are deemed illegal, including by imposing criminal charges and up to three years in prison for conviction of participation in strikes declared illegal by the court.
The labor code limits worker rights to make claims on their employers. For example, its Article 12 requires employers to negotiate any labor-related act with official employee representatives. If there are multiple official representatives, they have five days in which to form a unified body to discuss the proposed act. If the group cannot come to consensus, the employer may accept the act without the consent of the employees. Article 52 lists 25 reasons an employer may fire a worker.

Disagreements between unions and their employers may be presented to a tripartite commission composed of representatives of the government, labor unions, and employer associations. State-affiliated and independent labor unions participate in tripartite commissions. The tripartite commission is responsible for developing and signing annual agreements governing most aspects of labor relations.

Foreign workers have the right to join unions, but the law prohibits the operation of foreign unions and the financing of unions by foreign entities, such as foreign citizens, governments, and international organizations. Irregular migrants and self-employed individuals residing in the country were not per se exempt from the law. Approximately two million of the nine million economically active citizens were self-employed in the second quarter of the year.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, except when it is a consequence of a court sentencing or a condition of a state of emergency or martial law.

The penal code provides for punishment of convicted traffickers and those who facilitate forced exploitation and trafficking, including labor recruiters who hire workers through deliberately fraudulent or deceptive offers with the intent to subject them to forced labor, or employers or labor agents who confiscate passports or travel documents to keep workers in a state of involuntary servitude. Conviction of trafficking in persons for the purpose of labor and sexual exploitation is punishable by penalties that are sufficient to deter violations. Conviction of kidnapping and illegal deprivation of freedom with the purpose of labor or sexual exploitation is also punishable by penalties that were considered sufficient to deter violations.

The Ministry of Labor and Social Protection is responsible for conducting checks of employers to reveal labor law violations, including exploitation of foreign
workers. The Ministry of Internal Affairs is responsible for identifying victims of forced labor and sexual exploitation and initiating criminal proceedings. The government effectively enforced the laws to identify domestic victims of sexual exploitation, but it did not effectively enforce the laws to identify foreign victims and domestic victims of labor trafficking. The statistics on identification of foreign victims remained low; only two foreign victims were identified in 2018—one victim of sexual exploitation, and another victim of labor exploitation. Police conducted interagency operations to find victims of forced labor. Identification of forced labor victims, however, remained low and even decreased compared with 2018. Of 83 victims identified in 2018, 79 were victims of sexual exploitation, three victims of labor exploitation, and one victim of forced begging. In 2018 police investigated 106 criminal cases on human trafficking, and courts convicted 17 traffickers, all for sexual exploitation. The low number of foreign and labor victims identified in 2018 was among several reasons for the country’s downgrade to Tier 2 Watch List in the Department of State’s Annual Trafficking in Persons Report for 2019.

Migrant workers were considered most at risk for forced or compulsory labor. In 2018 according to the Ministry of Interior Affairs, 1.8 million people were registered as migrants in the country. The majority of migrant workers came from Uzbekistan, but there were also lesser numbers from Tajikistan and Kyrgyzstan. Migrant workers found employment primarily in agriculture and construction. The Ministry of Labor and Social Protection is responsible for handling issues related to migrant labor. In 2017 the government adopted a new Concept of Migration policy for 2017-2021 and an accompanying implementation plan. Together, these changes addressed both internal and external modern challenges, such as the excess of low-skilled labor due to increased inflow of labor migrants from other Central Asian countries and the deficiency of high-skilled labor in some sectors of the economy due to a low-level of education.

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

c. Prohibition of Child Labor and Minimum Age for Employment

The general minimum age for employment is 16. With parental permission, however, children ages 14 through 16 may perform light work that does not interfere with their health or education. The law prohibits minors from engaging in hazardous work and restricts the length of the workday for employees younger than 18.
The law prohibits all the worst forms of child labor; however, gaps exist in the legal framework to protect children adequately from worst forms of child labor. Prohibitions against the worst forms of child labor include criminal punishment under the penal code. Conviction of violation of minimum age employment in hazardous work, engaging minors in pornographic shows or production of materials containing pornographic images of minors, coercion of minors into prostitution, kidnapping or illegal deprivation of freedom of a minor for the purpose of exploitation, and trafficking in minors are punishable by penalties that were sufficient to deter violations. The Ministry of Internal Affairs is responsible for investigating criminal offenses and training criminal police in investigating the worst forms of child labor.

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

The government has established institutional mechanisms for the enforcement of child labor laws and regulations, but the government did not always effectively enforce the law. The government does not have a policy to address relevant forms of child labor. The complaint mechanism does not allow for anonymous individuals to report labor violations and, in the first nine months of the year, no case of child labor was reported to government hotlines.

In recent years, sporadic instances of children working below the country’s minimum age of employment were reported in agriculture, including producing vegetables, weeding, collecting worms, and harvesting cotton; in construction; in the markets and streets, including transporting and selling items; in domestic work; in gas stations, car washing, and working as bus conductors; or as waiters in restaurants. These forms of labor were determined by local legislation to be potentially hazardous and categorized as the worst forms of child labor. The majority of such situations, however, occur on family farms or in family businesses.
d. Discrimination with Respect to Employment and Occupation

Law and regulations prohibit discrimination with respect to employment and occupation based on gender, age, disability, race, ethnicity, language, place of residence, religion, political opinion, affiliation with tribe or class, public associations, or property, social, or official status. The law does not specifically prohibit discrimination with respect to employment and occupation based on sexual orientation, gender identity, HIV-positive status, or having other communicable diseases. The government effectively enforced the law and regulations. Discrimination is an administrative offense punishable by a fine that is not sufficient to deter violations. Some cases like illegal termination of labor contracts due to pregnancy, disability, or minority are considered a criminal offense and are punishable by penalties which are sufficient to deter violations.

Discrimination, however, occurred with respect to employment and occupation for persons with disabilities, orphans, and former convicts. Disability NGOs reported that despite government efforts, obtaining employment was difficult for persons with disabilities. The law does not require equal pay for equal work for women and men. NGOs reported no government body assumed responsibility for implementing antidiscrimination legislation and asserted the law’s definition of gender discrimination does not comply with international standards. More women than men were self-employed or underemployed relative to their education level.

In June a fight occurred at Chevron-operated Tengiz oilfield between local and foreign workers, resulting in 45 injuries. One reason for the trouble was discontent among local workers who had complained of a wage discrepancy between local and foreign workers with similar qualifications. The Ministry of Labor and Social Protection launched a series of inspections at companies employing foreign workers. The ministry reported the following violations: 1) foreign workers were paid 30-50 percent more than local workers; 2) local workers were paid in local currency, while foreign workers were paid in U.S. dollars; and 3) some foreign workers occupied positions that differed from that described on the work permits. These violations are punishable by fines, annulment of work permits, or deportation of a company’s foreign workforce.
In the first seven months of the year, the Labor and Social Protection Ministry fined companies with foreign ownership for over 300 violations in the cumulative amount of around 1 million tenge ($2,596).

e. Acceptable Conditions of Work

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

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

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

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

In July 2018 the Supreme Court ruled in favor of China National Petroleum Corporation-AktobeMunayGas, owned by China National Petroleum Corporation,
which in 2017 reduced the environmental allowance for 403 workers who reside in the ecologically challenging Aral Sea area from 50 percent to 20 percent. The company, supported by the Ministry of Labor and Social Protection, argued that only workers who both reside and work in the Aral Sea area are entitled to a 50 percent allowance. Those who resided in the Aral Sea area, but worked elsewhere, may claim only the 20 percent allowance.

The Ministry of Labor and Social Protection enforces the minimum wage, work-hour restrictions, overtime, and occupational safety and health standards. Under the entrepreneur code, labor inspectors have the right to conduct announced and unannounced inspections of workplaces to detect violations. Both types of inspections take place only after written notification. The government did not effectively enforce the law.

Inspections based on risk assessment reports are announced in writing not less than 30 days prior the beginning of the inspection. There has been a presidential moratorium on announced inspections since 2014. Unplanned inspections are announced not less than one day prior the beginning of the inspection. The number of labor inspectors was insufficient. Ministry inspectors conducted random inspections of employers. In 2018 inspectors conducted 8,774 inspections and detected 11,976 violations of labor law. Wage arrears accounted for 20 percent of violations, unsafe work conditions 20 percent, and illegal employment or dismissal made up 14 percent of cases. In 2018 both the Ministry of Education and Science and the Ministry of Internal Affairs, each in cooperation with other agencies, carried out additional inspection operations (raids) in areas where children were likely to engage in child labor.

The Human Rights Commission reported that the number of inspectors was insufficient. Moreover, the 2015 labor code introduced so-called employer’s declarations. Under this system, labor inspectors may extend a certificate of trust to enterprises that complied with labor legislation requirements. Certified enterprises are exempt from labor inspections for the three-year period. In the opinion of labor rights activists, such a practice may worsen labor conditions and conceal problems. By law any enterprise or company may form a production council to address labor safety issues from representatives of an employer and employees. These councils are eligible to conduct their own inspections of the employees’ work conditions. As of January there were 12,855 production councils and 17,751 volunteer labor inspectors.
There were reports some employers ignored regulations concerning occupational health and safety. Occupational safety and health conditions in the construction, industrial, and agricultural sectors often were substandard. Workers in factories sometimes lacked quality protective clothing and sometimes worked in conditions of poor visibility and ventilation. In 2018 the government reported 1,568 workplace injuries, of which 216 resulted in death. The government attributed many labor-related deaths to antiquated equipment, insufficient detection and prevention of occupational diseases in workers engaged in harmful labor, and disregard for safety regulations. The most dangerous jobs were in mining, construction, and oil and gas, according to an expert analysis of occupations with the highest fatalities.

The Ministry of Labor and Social Protection reported that in 2018, 23 percent of workers labored in hazardous conditions. Approximately 39,000 work health and safety violations were reported in 2018. The government suspended operation of 827 facilities and three enterprises due to flagrant violations. Approximately 2,000 fines totaling over 147 million tenge (over $380,000) were imposed.

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

In January the Ekibastuz city court awarded a former janitor of the Ekibastuz Combined Heat and Power Plant 3 million tenge (around $7,800) in damages after she developed bronchial asthma as a result of her work at the plant from 2000 to 2015. Bronchial asthma was recognized as an occupational disease in 2011 due to the high concentration of dust and gas in the air at the workplace.
Tab 2
EXECUTIVE SUMMARY

The Republic of Kazakhstan’s government system and constitution concentrate power in the presidency. The presidential administration controls the government, the legislature, and judiciary as well as regional and local governments. Changes or amendments to the constitution require presidential consent. The 2015 presidential election, in which President Nazarbayev received 98 percent of the vote, was marked by irregularities and lacked genuine political competition. The president’s Nur Otan Party won 82 percent of the vote in the 2016 election for the Mazhilis (lower house of parliament). The Organization for Security and Cooperation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR) observation mission judged the country continued to require considerable progress to meet its OSCE commitments for democratic elections. In June 2017 the country selected 16 of 47 senators and members of the parliament’s upper house in an indirect election tightly controlled by local governors working in concurrence with the presidential administration.

Civilian authorities maintained effective control over the security forces.

Human rights issues included torture; political prisoners; censorship; site blocking; criminalization of libel; restrictions on religion; substantial interference with the rights of peaceful assembly and freedom of association; restrictions on political participation; corruption; and restrictions on independent trade unions.

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

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

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

There were reports the government or its agents committed arbitrary or unlawful killings or beatings that led to deaths.
On April 30, the body of a 38-year-old resident of Karaganda who was allegedly shot and killed by Temirtau police officer Nurseit Kaldybayev was found in the city outskirts. Investigators proved that Kaldybayev had seized the victim’s car and intended to sell it to make money for his upcoming wedding party. On May 3, Kaldybayev was arrested and charged with premeditated murder. In August the Karaganda specialized criminal court found him guilty of murder and sentenced him to 19 years in jail.

On August 2, the Shakhtinsk Court convicted local prison director Baurbek Shotayev, prison officer Vitaly Zaretsky, and six prisoners--so-called voluntary assistants who receive special privileges in exchange for carrying out orders of prison staff--in the fatal torture of prisoner Valery Chupin. According to investigators, Chupin insulted a teacher at the prison school, and the prison director ordered that the voluntary assistants should discipline him. After brutal beatings and other abuse, Chupin was taken to a local hospital for emergency surgery, but he died. The judge sentenced Shotayev and Zaretsky to seven years of imprisonment each. The six prisoners convicted of carrying out the abuse received extended prison terms ranging from 10 to 17 years.

There were no official reports of military hazing resulting in death; however, there were instances of several deaths that the official investigations subsequently presented as suicides. Family members stated that the soldiers died because of hazing.

On July 15, 21-year-old conscript Bakytbek Myrzambekov died at the Ustyurt frontier station on the Kazakhstani-Turkmen border. According to the official report, on July 9, the soldier complained of food poisoning, was placed in the health unit two days later and died soon after of coronary artery disease. Family members did not believe the official explanation, denied he had heart problems, and asserted that he had died as a result of hazing, citing multiple bruises, including in the pelvic area.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
The law prohibits torture; nevertheless, police and prison officials allegedly tortured and abused detainees. Human rights activists asserted the domestic legal definition of torture was noncompliant with the definition of torture in the UN Convention against Torture.

The National Preventive Mechanism (NPM) against Torture came into force in 2014 when the prime minister signed rules permitting the monitoring of institutions. The NPM is part of the Office of the Human Rights Ombudsman and thus is not independent of the government. The Human Rights Ombudsman reported receiving 135 complaints alleging torture, violence, and other cruel and degrading treatment and punishment in 2017. In its April report covering activities in 2017, the NPM reported that despite some progress, problems with human rights abuses in prisons and temporary detention centers remained serious. Concerns included poor health and sanitary conditions; high risk of torture during search, investigation, and transit to other facilities; lack of feedback from prosecutors on investigation of torture complaints; lack of communication with families; discrimination against prisoners in vulnerable groups, including prisoners with disabilities, lesbian, gay, bisexual, transgender, and intersex (LGBTI) prisoners, prisoners with HIV/AIDS, and other persons from vulnerable groups; and a lack of secure channels for submission of complaints. The report disclosed the problem of so-called voluntary assistants who are used to control other prisoners. Some observers commented that NPM staff lacked sufficient knowledge and training to recognize instances of torture.

In its official report, the prosecutor general indicated 103 cases of torture in the first seven months of the year, of which 16 cases were investigated and forwarded to courts.

**Prison and Detention Center Conditions**

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

**Physical Conditions:** According to Prison Reform International (PRI), although men and women were held separately and pretrial detainees were held separately from convicted prisoners, during transitions from temporary detention centers, pretrial detention, and prisons, youth often were held with adults.
Abuse occurred in police cells, pretrial detention facilities, and prisons. Observers cited the lack of professional training programs for administrators as the primary cause of mistreatment.

To address infrastructural problems in prisons, authorities closed the eight prisons with the worst conditions. The NPM reported continuing infrastructure problems in prisons, such as unsatisfactory sanitary and hygiene conditions, including poor plumbing and sewerage systems and unsanitary bedding. It also reported shortages of medical staff and insufficient medicine, as well as problems of mobility for prisoners with disabilities. In many places the NPM noted restricted connectivity with the outside world and limited access to information regarding prisoners’ rights. PRI reported that there is widespread concern concerning food and nutrition quality in prisons. Prisoners and former prisoners have complained about their provisions and reported that they were served food past its shelf life.

The government did not publish statistics on the number of deaths, suicides, or attempted suicides in pretrial detention centers or prisons during the year.

**Administration:** Authorities typically did not conduct proper investigations into allegations of mistreatment. Human rights observers noted that in many cases authorities did not investigate prisoners’ allegations of torture or did not hold prison administrators or staff accountable. The law does not allow unapproved religious services, rites, ceremonies, meetings, or missionary activity in prisons. By law a prisoner in need of “religious rituals” or his relatives may ask to invite a representative of a registered religious organization to carry out religious rites, ceremonies, or meetings, provided they do not obstruct prison activity or violate the rights and legal interests of other individuals. PRI reported that some prisons prohibited Muslim prisoners from fasting during Ramadan.

**Independent Monitoring:** There were no independent international monitors of prisons. Public Monitoring Commissions (PMCs), quasi-independent bodies that respond to allegations of and attempt to deter torture and mistreatment in prisons, carry out monitoring. In the first 10 months of the year, the PMCs conducted 340 monitoring visits to prisons facilities. Human rights advocates noted that some prisons created administrative barriers to prevent the PMCs from successfully carrying out their mandate, including creating bureaucratic delays, forcing the PMCs to wait for hours to gain access to the facilities, or allowing the PMCs to visit for only a short time.
Authorities began investigating the chair of the Public Monitoring Commission in Pavlodar, Elena Semyonova, on charges of dissemination of false information after she raised the issue of the torture and mistreatment of prisoners to EU parliamentarians in early July. The investigation was ongoing.

According to media reports, Aron Atabek, a poet who has been in prison for 12 years, complained to Semyonova regarding the conditions in his prison. He mentioned his cold, damp cell, his worn clothes, and the information vacuum he was held in without access to letters or television.

**Improvements:** The 2015 criminal code introduced alternative sentences, including fines and public service, but human rights activists noted they were not implemented effectively.

**d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, but the practice occurred. The government did not provide statistics on the number of individuals unlawfully detained during the year. The prosecutor general reported that during the first six months of the year prosecutors released 423 individuals who were unlawfully held in police cells and offices.

**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 of Civil Service Affairs and Anticorruption has administrative and criminal investigative powers. The Committee for National Security (KNB) plays a role in border security, internal and national security, antiterrorism efforts, and the investigation and interdiction of illegal or unregistered groups, such as extremist groups, military groups, political parties, religious groups, and trade unions. In July 2017 the president signed legislative amendments on a reform of the law enforcement agencies, including one giving power to the KNB to investigate corruption by officers of the secret services, anticorruption bureau, and military. The KNB, Syrbar (the foreign intelligence service), and the Agency of Civil Service Affairs and Anticorruption all report directly to the president. Many government ministries maintained blogs where citizens could register complaints.
Although the government took some steps to prosecute officials who committed abuses, impunity existed, especially where corruption was involved or personal relationships with government officials were established.

**Arrest Procedures and Treatment of Detainees**

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

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

The Prosecutor General reported that the December 2017 amendments to the criminal procedure code reduced the number of causes for arrest and the length of time for preliminary detention from 72 to 48 hours, and cut the number of arrested suspects by 1,500. Authorities held in custody 83 percent of detained individuals for not more than 48 hours.

Although the judiciary has the authority to deny or grant arrest warrants, judges authorized prosecutor warrant requests in the vast majority of cases.
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 2015 criminal procedure code obliges police to inform detainees concerning their rights, including the right to an attorney. Human rights observers stated that prisoners were constrained in their ability to communicate with their attorneys, that penitentiary staff secretly recorded conversations, and that staff often remained present during the meetings between defendants and attorneys.

Human rights defenders reported that authorities dissuaded detainees from seeing an attorney, gathered evidence through preliminary questioning before a detainee’s attorney arrived, and in some cases used defense attorneys to gather evidence. The law states that the government must provide an attorney for an indigent suspect or defendant when the suspect is a minor, has physical or mental disabilities, or faces serious criminal charges, but public defenders often lacked the necessary experience and training to assist defendants. Defendants are barred from freely choosing their defense counsel if the cases against them involve state secrets. The law allows only lawyers who have special clearance to work on such cases.

**Arbitrary Arrest:** Prosecutors reported six incidents of arbitrary arrest and detention in the first six months of the year.

The government frequently arrested and detained political opponents and critics, sometimes for minor infractions, such as unsanctioned assembly, that led to fines or up to 10 days’ administrative arrest.

**Pretrial Detention:** The law allows police to hold a detainee for 48 hours before bringing charges. Human rights observers stated that authorities often used this phase of detention to torture, beat, and abuse inmates to extract confessions.

Once charged, detainees may be held in pretrial detention for up to two months. Depending on the complexity and severity of the alleged offense, authorities may extend the term for up to 18 months while the investigation takes place. The pretrial detention term may not be longer than the potential sentence for the offense. Upon the completion of the investigation, the investigator puts together an official indictment. The materials of the case are shared with the defendant and then sent to the prosecutor, who has five days to check the materials and forward them to the court.
The 2015 criminal code introduced the concept of conditional release on bail, although use of bail procedures is limited. Prolonged pretrial detentions remain commonplace. The bail system is designed for persons who commit a criminal offense for the first time or for a crime of minor or moderate severity not associated with causing death or grievous bodily harm to the victim, provided that the penalties for conviction of committing such a crime contain a fine as an alternative penalty. Bail is not available to suspects of grave crimes, crimes that led to death or were committed by a criminal group, terrorist or extremist crimes, or if there is a justified reason to believe that the suspect would hinder investigation of the case or would escape, or if the suspect violated the terms of bail in the past.

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

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

e. Denial of Fair Public Trial

The law does not provide for an independent judiciary. The executive branch sharply limited judicial independence. Prosecutors enjoyed a quasi-judicial role and have 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 stated that judges, prosecutors, and other officials solicited bribes in exchange for favorable rulings in many criminal and civil cases.

Corruption in the judicial system was widespread. Bribes and irregular payments were regularly exchanged in order to obtain favorable court decisions. In many cases the courts were controlled by the interests of the ruling elite, according to Freedom House’s Nations in Transit report for 2018. According to the same report, the process is not public and open as “all participants in criminal processes sign a pledge of secrecy of investigation.” Recruitment of judges was plagued by
corruption, and becoming a judge often required bribing various officials, according to the Bertelsmann Stiftung’s *Transformation Index* report for the year.

Business entities were reluctant to approach courts because foreign businesses have a historically poor record when challenging government regulations and contractual disputes within the local judicial system. Judicial outcomes were perceived as subject to political influence and interference due to a lack of independence. A dedicated investment dispute panel was established in 2016, yet investor concerns regarding the panel’s independence and strong bias in favor of government officials remained. Companies expressed reluctance to seek foreign arbitration because anecdotal evidence suggested the government looks unfavorably on cases involving foreign judicial entities.

Judges were punished for violations of judicial ethics. According to official statistics, during the first nine months of the year authorities convicted two judges for corruption crimes. On June 13, the court in Shymkent convicted Makhta-Aral District Court judge Abay Niazbekov for taking a bribe and sentenced him to 4.5 years of imprisonment and a life ban on working in government offices and state-owned enterprises. On January 30, authorities caught Niazbekov accepting a bribe of 500,000 tenge ($1,360) in his office.

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

**Trial Procedures**

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

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

Observers noted the juror selection process was inconsistent. Judges exerted pressure on jurors and could easily dissolve a panel of jurors for perceived
disobedience of their orders. The law has no mechanism for holding judges liable for such actions.

Indigent defendants in criminal cases have the right to counsel and a government-provided attorney. By law a defendant must be represented by an attorney when the defendant is a minor, has mental or physical disabilities, does not speak the language of the court, or faces 10 or more years of imprisonment. Defense attorneys, however, reportedly participated in only one half of criminal cases, in part because the government failed to pay them properly or on time. The law also provides defendants the rights 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, prosecutors dominated trials, and defense attorneys played a minor role.

Domestic and international human rights organizations reported numerous problems in the judicial system, including lack of access to court proceedings, lack of access to government-held evidence, frequent procedural violations, denial of defense counsel motions, and failure of judges to investigate allegations that authorities extracted confessions through torture or duress.

Lack of due process remained a problem, particularly in a handful of politically motivated trials involving opposition activists and in cases in which there were allegations of improper political or financial influence.

Human rights and international observers noted investigative and prosecutorial practices that emphasized a confession of guilt regarding over collection of other evidence in building a criminal case against a defendant. Courts generally ignored allegations by defendants that officials obtained confessions by torture or duress.

**Political Prisoners and Detainees**

The Open Dialog Foundation maintained a list of approximately 24 individuals it considered detained or imprisoned based on politically motivated charges, including land code activist Maks Bokayev and individuals connected to the opposition group Democratic Choice of Kazakhstan, led by fugitive banker Mukhtar Ablyazov, and other individuals connected to Ablyazov. Convicted labor union leader Larisa Kharkova remained under restricted movement, unable to leave her home city without permission of authorities. Human rights organizations have access to prisoners through the framework of the National Preventative Mechanism against Torture.
Land code activist Maks Bokayev was sentenced in 2016 to five years in prison for organizing peaceful land reform protests. Although the UN Working Group on Arbitrary Detention concluded that his imprisonment was arbitrary, he remained in jail.

On October 22, a court in Almaty found businessman Iskander Yerimbetov guilty of fraud for illegally fixing prices in his aviation logistics company and sentenced him to seven years’ imprisonment. Human rights observers criticized numerous violations in the investigation and court proceedings, including allegations of physical mistreatment, and condemned the case as politically motivated. On December 11, the UN Working Group on Arbitrary Detention determined his deprivation of liberty to be arbitrary. The Working Group was concerned by the lack of a warrant at the time of arrest, procedural violations during his detention and trial, and Yerimbetov’s well-being while in detention.

On August 17, authorities released Vadim Kuramshin, a human rights defender designated by civil society organizations as an individual imprisoned on politically motivated charges, on parole after six years in prison.

**Civil Judicial Procedures and Remedies**

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

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

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

The law provides prosecutors with extensive authority to limit citizens’ constitutional rights. The KNB, the Ministry of Internal Affairs, and other agencies, with the concurrence of the Prosecutor General’s Office, may infringe on the secrecy of private communications and financial records, as well as on the inviolability of the home. Human rights activists reported incidents of alleged surveillance, including KNB officers visiting activists and their families’ homes for
“unofficial” conversations regarding suspect activities, wiretapping and recording of telephone conversations, and videos of private meetings posted on social media.

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

Government opponents, human rights defenders, and their family members continued to report the government occasionally monitored their movements.

In July 2017 the prime minister transferred the State Technical Service for centralized management of telecommunication networks and for monitoring of information systems from the Ministry of Information and Communication to the KNB.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

While the constitution provides for freedom of speech and of the press, the government limited freedom of expression and exerted influence on media through a variety of means, including laws, harassment, licensing regulations, internet restrictions, and criminal and administrative charges. Journalists and media outlets exercised self-censorship to avoid pressure by the government. The law provides for additional measures and restrictions during “social emergencies,” defined as “an emergency on a certain territory caused by contradictions and conflicts in social relations that may cause or have caused loss of life, personal injury, significant property damage, or violation of conditions of the population.” In these situations, the government may censor media sources by requiring them to provide their print, audio, and video information to authorities 24 hours before issuance or broadcasting for approval. Political parties and public associations may be suspended or closed should they obstruct the efforts of security forces. Regulations also allow the government to restrict or ban copying equipment, broadcasting equipment, and audio and video recording devices and to seize temporarily sound-enhancing equipment.

On May 28, a court suspended the license of independent online newspaper Ratel.kz and banned its chief editor, Marat Asipov, from the publishing world. On March 30, Almaty police opened a criminal investigation against the newspaper, which had reported on the alleged corruption of a former minister. Local and
international human rights observers criticized the shutdown of Ratel.kz as an infringement on media freedom.

Freedom of Expression: The government limited individual ability to criticize the country’s leadership, and regional leaders attempted to limit criticism of their actions in local media. The law prohibits insulting the president or the president’s family, and penalizes “intentionally spreading false information” with fines of up to 12.96 million tenge ($40,000) and imprisonment for up to 10 years.

On March 15, police in Shymkent launched a criminal investigation against popular blogger Ardak Ashim, known for her critical posts concerning social issues. Police charged her with incitement of social discord. On March 27, the court held a meeting in the absence of Ashim, her lawyer, or any of her representatives and issued a ruling that she should be placed in a mental hospital for coercive treatment. Local and international human rights defenders demanded immediate release of the blogger, condemned her repression, and named her a prisoner of conscience and victim of punitive psychiatry. On May 5, she was released.

Press and Media Freedom: Many privately owned newspapers and television stations received government subsidies. The lack of transparency in media ownership and the dependence of many outlets on government contracts for media coverage are significant problems. On January 25, the Legal Media Center nongovernmental organization (NGO) lost a lawsuit against the Ministry of Information and Communication challenging the ministry’s refusal to publicize information regarding media outlets that receive government subsidies. The court supported the ministry, determining that such information should be protected as a commercial secret.

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

All media are required to register with the Ministry of Information and Communication, although websites are exempt from this requirement. The law limits the simultaneous broadcast of foreign-produced programming to 20 percent of a locally based station’s weekly broadcast time. This provision burdened
smaller, less-developed regional television stations that lacked resources to create programs, although the government did not sanction any media outlet under this provision. Foreign media broadcasting does not have to meet this requirement.

Under amendments to the media law, which entered into force in January, all foreign television and radio channels had to register as legal entities or register a branch office in the country by July 9. The Ministry of Information and Communication cancelled 88 registration certificates because they did not meet registration requirements.

**Violence and Harassment:** Independent journalists and those working in opposition media or covering stories related to corruption reported harassment and intimidation by government officials and private actors. On June 19, the chief editor and several journalists of independent newspaper *Uralskaya Nedelya* were summoned by police for interrogation concerning a comment on the newspaper’s *YouTube* page. An unidentified commenter called on readers to join a protest rally planned for June 23 by the banned Democratic Choice of Kazakhstan movement. The office of the newspaper and the chief editor’s house were searched. At the end of the interrogation, police warned the journalists against participation in the illegal rally.

**Censorship or Content Restrictions:** The law enables the government to restrict media content through amendments that prohibit undermining state security or advocating class, social, race, national, or religious discord. Owners, editors, distributors, and journalists may be held civilly and criminally responsible for content unless it came from an official source. The government used this provision to restrict media freedom.

The law allows the prosecutor general to suspend access to the internet and other means of communication without a court order. The prosecutor general may suspend communication services in cases where communication networks are used “for criminal purposes to harm the interests of an individual, society, or the state, or to disseminate information violating the Election Law…or containing calls for extremist or terrorist activities, riots, or participation in large-scale (public) activities carried out in violation of the established order.”

By law internet resources, including social media, are classified as forms of mass media and governed by the same rules and regulations. Authorities continued to charge bloggers and social media users with inciting social discord through their online posts.
On September 20, Ablovas Jumayev received a three-year prison sentence on conviction of charges of inciting social discord because he posted messages critical of the government to a 10,000-member Telegram messenger group and allegedly distributed antigovernment leaflets. Jumayev denied the leafleting charges, stating that the leaflets were planted in his car. On Telegram, he had criticized the president’s appointment of a regional police chief. The trial of his wife Aigul Akberdi on similar charges was ongoing.

Libel/Slander Laws: The law provides enhanced penalties for libel and slander against senior government officials. Private parties may initiate criminal libel suits without independent action by the government, and an individual filing such a suit may also file a civil suit based on the same allegations. Officials used the law’s libel and defamation provisions to restrict media outlets from publishing unflattering information. Both the criminal and civil codes contain articles establishing broad liability for libel and slander, 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, encouraged self-censorship at each level.

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

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

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

The law prohibits publication of any statement that promotes or glorifies “extremism” or “incites social discord,” terms that international legal experts noted
the government did not clearly define. The government subjected to intimidation media outlets that criticized the president; such intimidation included law enforcement actions and civil suits. Although these actions continued to have a chilling effect on media outlets, some criticism of government policies continued. Incidents of local government pressure on media continued.

**Internet Freedom**

The government exercised comprehensive control over online content. Observers reported the government blocked or slowed access to opposition postings websites. Many observers believed the government added progovernment postings and opinions in internet chat rooms. The government regulated the country’s internet providers, including majority state-owned Kazakhtelecom. Nevertheless, websites carried a wide variety of views, including viewpoints critical of the government. Official statistics reported that 73 percent of the population had internet access in 2018.

In January, amendments to the media law entered into force. The amended law prohibits citizens from leaving anonymous comments on media outlet websites, which must register all online commenters and make the registration information available to law enforcement agencies on request. As a result most online media outlets chose to shut down public comment platforms.

The Ministry of Defense and Aerospace Industry controlled the registration of “.kz” internet domains. Authorities may suspend or revoke registration for locating servers outside the country. Observers criticized the registration process as unduly restrictive and vulnerable to abuse.

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

In several cases the government denied it was behind the blocking of websites. Bloggers reported anecdotally their sites were periodically blocked, as did the publishers of independent news sites.

On March 13, a court in Astana banned the Democratic Choice of Kazakhstan movement led by fugitive banker Mukhtar Ablyazov. The same day Minister of Information and Communication Dauren Abayev announced that access to
Ablyazov’s social media posts would be restricted. Internet users reported that access to Facebook, Instagram and YouTube were occasionally blocked in the evening at a time coinciding with Ablyazov’s livestream broadcasts. The government denied responsibility and stated that technical difficulties were to blame.

In July the Ministry of Defense and Aerospace Industry reported that it notified the Center of Network Information of violation of the law by 288 websites that hosted harmful software. There were 124 websites blocked for failure to rectify registration data.

Government surveillance was also prevalent. According to Freedom House’s *Freedom on the Net 2018* report, where the country is listed as “not free,” “the government centralizes internet infrastructure in a way that facilitates control of content and surveillance.” Authorities, both national and local, monitored internet traffic and online communications. The report stated that “activists using social media were occasionally intercepted or punished, sometimes preemptively, by authorities who had prior knowledge of their planned activities.”

*Freedom on the Net* reported during the year that the country maintained a system of operative investigative measures that allowed the government to use surveillance methods called Deep Packet Inspection (DPI). While Kazakhtelecom maintained that it used its DPI system for traffic management, there were reports that Check Point Software Technologies installed the system on its backbone infrastructure in 2010. The report added that a regulator adopted an internet monitoring technology, the Automated System of Monitoring the National Information Space.

**Academic Freedom and Cultural Events**

The government generally did not restrict academic freedom, although general restrictions, such as the prohibition on infringing on the dignity and honor of the president and his family, also applied to academics. Many academics practiced self-censorship. In January a group of scientists cosigned a letter appealing to the president to resolve corruption in the distribution of grants for scientific work. The scientists criticized the National Science Grants Council for unfair distribution of grants. In response the Science Committee of the Ministry of Education and society filed a complaint with police, which opened a case against a scholar of the Almaty Astrophysics Institute for allegedly fabricating signatures in the letter to the president. No further action was reported.
b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The law provides for limited freedom of assembly, but there were significant restrictions on this right. The law defines unsanctioned gatherings, public meetings, demonstrations, marches, picketing, and strikes that upset social and political stability as national security threats.

The law includes penalties for organizing or participating in illegal gatherings and for providing organizational support in the form of property, means of communication, equipment, and transportation, if the enumerated actions cause significant damage to the rights and legal interests of citizens, entities, or legally protected interests of the society or the government.

By law organizations must apply to local authorities at least 10 days in advance for a permit to hold a demonstration or public meeting. 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 local authorities turned down many applications for demonstrations or only allowed them to take place outside the city center.

Activists in Almaty applied to hold a public gathering on August 4 to demand police reform following the death of Olympic medalist Denis Ten. The mayor’s office refused the request, stating that the only place designated for public events in Almaty had already been reserved for another event. The Astana mayor’s office similarly declined a demonstration request. The Almaty activists subsequently submitted 31 petitions requesting a gathering to be held any day in the next month; the mayor’s office denied them all.

On May 10, several dozen individuals staged a protest initiated by fugitive banker and leader of the banned opposition group Democratic Choice of Kazakhstan (DCK) Mukhtar Ablyazov to demand the release of political prisoners and an end to torture. The protest had not received government approval. Police dispersed the protestors and detained several, among them random passers-by and minors, according to activists. Some of those detained were punished by court fines or short administrative detentions. The government did not release any official data on the number of detained or punished protestors.
On June 23, the DCK called another unapproved rally. Police preemptively arrested a number of individuals thought to be involved in the protests. Human rights advocacy organizations reported that those detained included passersby, senior citizens, pregnant women, and children. In several cities reporters who came to cover the event were briefly detained. All detainees were taken to police stations and held there for several hours without food or water. Human rights observers criticized police for unjustified detention and numerous procedural violations in holding the detainees in custody. There were no official reports on the number of those detained. Human rights advocates stated that more than a hundred individuals were detained in Almaty, 30 in Astana, and at least a dozen in Shymkent. In some cities protestors dispersed without police involvement.

**Freedom of Association**

The law provides for limited freedom of association, but there were significant restrictions on this right. Any public organization set up by citizens, including religious groups, must be registered with the Ministry of Justice, as well as with the local departments of justice in every region in which the organization conducts activities. The law requires public or religious associations to define their specific activities, and any association that acts outside the scope of its charter may be warned, fined, suspended, or ultimately banned. Participation in unregistered public organizations may result in administrative or criminal penalties, such as fines, imprisonment, the closure of an organization, or suspension of its activities.

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

Membership organizations other than religious groups, which are covered under separate legislation, must have at least 10 members to register at the local level and must have branches in more than one-half the country’s regions for national registration. The government considered political parties and labor unions to be membership organizations but required political parties to have 40,000 signatures for registration. If authorities challenge the application by alleging irregular signatures, the registration process may continue only if the total number of eligible signatures exceeds the minimum number required. The law prohibits parties established on an ethnic, gender, or religious basis. The law also prohibits members of the armed forces, employees of law enforcement and other national security organizations, and judges from participating in trade unions or political parties.
According to Maina Kiai, the UN special rapporteur who visited Kazakhstan in 2015, the law regulating the establishment of political parties is problematic as it imposes onerous obligations prior to registration, including high initial membership requirements that prevent small parties from forming and extensive documentation that requires time and significant expense to collect. He also expressed concern regarding the broad discretion granted to officials in charge of registering proposed parties, noting that the process lacked transparency and the law allows for perpetual extensions of time for the government to review a party’s application.

Under the 2015 NGO financing law, all “nongovernment organizations, subsidiaries, and representative offices of foreign and international noncommercial organizations” are required to provide information on “their activities, including information regarding the founders, assets, sources of their funds and what they are spent on….” An “authorized body” may initiate a “verification” of the information submitted based on information received in mass media reports, complaints from individuals and entities, or other subjective sources. Untimely or inaccurate information contained in the report, discovered during verification, is an administrative offense and may carry fines up to 53,025 tenge ($159) or suspension for three months if the violation is not rectified or is repeated within one year. In extreme cases criminal penalties are possible, which may lead to a large fine, suspension, or closure of the organization.

The law prohibits illegal interference by members of public associations in the activities of the government, with a fine of up to 636,300 tenge ($1,910) or imprisonment for up to 75 days. If committed by the leader of the organization, the fine may be up to 1.06 million tenge ($3,180) or imprisonment for no more than 90 days. The law does not clearly define “illegal interference.”

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

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

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. Despite some regulatory restrictions, the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (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.

**Abuse of Migrants, Refugees, and Stateless Persons:** Human rights activists noted numerous violations of labor migrants’ rights, particularly those of unregulated migrants. The UN International Organization for Migration (IOM) noted a growing number of migrants who were banned re-entry to Russia and chose to stay in Kazakhstan. The government does not have a mechanism for integration of migrants, with the exception of ethnic Kazakh repatriates (oralman). Labor migrants from neighboring Central Asian countries are often low-skilled and seek manual labor. They were exposed to dangerous work and often faced abusive practices. The migrants are in vulnerable positions because of their unregulated legal status; the laborers do not know their rights, national labor and migration legislation, local culture, or the language.

Among major violations of these migrants’ rights, activists mentioned the lack of employment contracts, poor working conditions, long working hours, low salaries, nonpayment or delayed payment of salaries, and lack of adequate housing. Migrant workers faced the risk of falling victim to human trafficking and forced labor, and the International Labor Organization indicated migrants had very limited or no access to the justice system, social support, or basic health services. In its 2018 report the International Federation for Human Rights stated violations of labor migrants’ rights additionally included corruption of police forces’ migration officers and in other government offices. The report noted increased discrimination against migrants in society, exacerbated by their lack of information, education, and language difficulties.
In-country Movement: The government required foreigners who remained in the country for more than five days to register with migration police. Foreigners entering the country had to register at certain border posts or airports where they entered. Some foreigners experienced problems traveling in regions outside their registration area. The government’s Concept on Improving Migration Policy report covers internal migration, repatriation of ethnic Kazakh returnees (oralman), and external labor migration. In 2017 the government amended the rules for migrants entering the country so that migrants from Eurasian Economic Union countries may stay up to 90 days. There is a registration exemption for families of legal migrant workers for a 30-day period after the worker starts employment. The government has broad authority to deport those who violate the regulations.

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

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

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

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

Protection of Refugees
The government cooperated with UNHCR and other organizations to provide 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. There are approximately 600 recognized refugees in the country, and the government recognized six persons as refugees during the first nine months of the year. Both the number of refugee applications and the approval rate by the government declined considerably during the year compared with prior years.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. UNHCR legally may appeal to the government and intervene on behalf of individuals facing deportation. The law and several implementing regulations and bylaws regulate the granting of asylum and refugee status.

The Refugee Status Determination outlines procedures and access to government services, including the right to be legally registered and issued official documents. The Department of Migration Police in the Ministry of Internal Affairs conducts status determination procedures. Any individual seeking asylum in the country has access to the asylum procedure. According to UNHCR, the refugee system suffers from two major issues. First, access to the territory of Kazakhstan is limited. A person who crosses the border illegally may be prosecuted in criminal court, and may be viewed as a person with criminal potential. Second, access to asylum procedures falls short of the international standard. Authorities remain reluctant to accept asylum applications at the border from persons who lack valid identity documents, citing security concerns.

A legislative framework does not exist to manage the movement of asylum seekers between the country’s borders and authorities in other areas. There are no reception facilities for asylum seekers. The government does not provide accommodation, allowances, or any social benefits to asylum seekers. The law does not provide for differentiated procedures for persons with specific needs, such as separated children and persons with disabilities. Asylum seekers and refugees with specific needs are not entitled to financial or medical assistance. There are no guidelines for handling sensitive cases, including lesbian, gay, bisexual, transgender, and intersex (LGBTI) cases.

Employment: Refugees faced difficulties in gaining employment and social assistance from the government. By law refugees have the right to work, with the exception of engaging in individual entrepreneurship. Refugees faced difficulties
in accessing the labor market due to local employers’ lack of awareness of refugee rights.

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

UNHCR reported cordial relations with the government in assisting refugees and asylum seekers. The government usually allowed UNHCR access to detained foreigners to provide for proper treatment and fair determination of status.

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

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

The government has an agreement with China not to tolerate the presence of ethnic separatists from one country on the territory of the other. UNHCR reported three Uighurs received refugee status during the first nine months of the year.

**Stateless Persons**

The constitution and law provide avenues to deal with those considered stateless, and the government generally took seriously its obligation to ease the burden of statelessness within the country. As of September approximately 6,900 persons were officially registered by the government as stateless. The majority of individuals residing in the country with undetermined nationality, with de facto
Statelessness, or at heightened risk of statelessness are primarily those who have no identity documents, have invalid identity documents from a neighboring CIS country, or are holders of Soviet-era passports. These individuals typically resided in remote areas without obtaining official documentation.

In July 2017 the president signed a law that allows the government to deprive Kazakhstani citizenship to individuals convicted of a range of grave terrorism and extremism-related crimes, including for “harming the interest of the state.” According to UNHCR, no one has yet been deprived of citizenship under this law.

According to UNHCR the law provides a range of rights to persons recognized by the government as stateless. The legal status of officially registered stateless persons is documented and considered as having permanent residency, which is granted for 10 years in the form of a stateless person certificate. According to the law, after five years of residence in the country, stateless persons are eligible to apply for citizenship. Children born in the country to officially recognized stateless persons who have a permanent place of residence are recognized as nationals. A legal procedure exists for ethnic Kazakhs; those with immediate relatives in the country; and citizens of Ukraine, Belarus, Russia, and Kyrgyzstan, with which the country has agreements. The law gives the government six months to consider an application for citizenship. Some applicants complained that, due to the lengthy bureaucratic process, obtaining citizenship often took years. In summary the law does not provide a simplified naturalization procedure for stateless persons. Existing legislation prevents children of parents without identity documents from obtaining birth certificates, which hindered their access to education, free health care, and freedom of movement.

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

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

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

Section 3. Freedom to Participate in the Political Process

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

Although the 2017 constitutional amendments increased legislative and executive branch authority in some spheres, the constitution continues to concentrate power in the presidency itself. The president appoints and dismisses most high-level government officials, including the prime minister, cabinet, prosecutor general, the KNB chief, Supreme Court and lower-level judges, and regional governors. The Mazhilis must confirm the president’s choice of prime minister, and the Senate must confirm the president’s choices of prosecutor general, the KNB chief, Supreme Court judges, and National Bank head. Parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president’s consent. Constitutional amendments exempt the president from the two-term presidential term limit and protect him from prosecution.

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

Elections and Political Participation

Recent Elections: An early presidential election in 2015 gave President Nazarbayev 97.5 percent of the vote. According to the New York Times newspaper, his two opponents, who both supported the Nazarbayev government, were seen as playing a perfunctory role as opposition candidates. The OSCE stated that the election process in most cases was managed effectively, although the OSCE/Office for Democratic Institutions and Human Rights (ODIHR) election observation mission stated voters were not given a choice of political alternatives and noted that both “opposition” candidates had openly praised Nazarbayev’s
achievements. Some voters reportedly had been pressured to vote for the incumbent.

In June 2017 16 of the 47 members of the Senate were selected by members of maslikhats--local representative bodies--acting as electors to represent each oblast (administrative region) and the cities of Astana and Almaty. Four incumbent senators were re-elected, and the majority of the newly elected senators were affiliated with the ruling Nur Otan Party.

As a result of early Mazhilis elections in 2016, the ruling Nur Otan Party won 84 seats, Ak Zhol won seven seats, and the Communist People’s Party of Kazakhstan won seven seats. The ODIHR reported widespread ballot stuffing and inflated vote totals. The ODIHR criticized the election for falling short of the country’s democratic commitments. The legal framework imposed substantial restrictions on fundamental civil and political rights. On election day serious procedural errors and irregularities were noted during voting, counting, and tabulation.

In June the government amended the election law, reducing the independence of local representative bodies (maslikhats). Previously, citizens could nominate and vote for candidates running in elections for the maslikhats. Under the amended law, citizens vote for parties and parties choose who sits on the maslikhats.

Political Parties and Political Participation: 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 six political parties registered, including Ak Zhol, Birlik, and the People’s Patriotic Party “Auyl” (merged from the Party of Patriots of Kazakhstan and the Kazakhstan Social Democratic Party). The parties generally did not oppose President Nazarbayev’s policies.

To register, a political party must hold a founding congress with a minimum attendance of 1,000 delegates, including representatives from two-thirds of the oblasts and the cities of Astana, Turkistan, and Almaty. Parties must obtain at least 600 signatures from each oblast and the cities of Astana, Turkistan, and Almaty, registration from the Central Election Commission (CEC), and registration from each oblast-level election commission.
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 or minorities in politics.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. The government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

Corruption: Corruption was widespread in the executive branch, law enforcement agencies, local government administrations, the education system, and the judiciary, according to human rights NGOs. On July 12, the president signed into law a set of amendments to the criminal legislation mitigating punishment for a variety of acts of corruption by officials, including decriminalizing official inaction, hindrance to business activities, and falsification of documents; significantly reducing the amounts of fines for taking bribes; and reinstating a statute of limitation for corruption crimes.

The Ministry of Internal Affairs, the Agency on Civil Service Affairs and Combatting Corruption, the KNB, and the Disciplinary State Service Commission are responsible for combating corruption. The KNB investigates corruption crimes committed by officers of the special agencies, anticorruption bureau, and military. According to official statistics, 1,024 corruption-related offenses were registered during the first seven months of the year. The most frequent crimes were bribery (52 percent), embezzlement (21 percent), and abuse of power (17 percent). The government charged 663 officials with corruption, and 1,370 cases were submitted to courts.

On July 12, a court in Astana sentenced the former chairman of the Geology and Subsoil Committee of the Ministry of Investment and Development, Bazarbay Nurabayev, to seven-and-a-half years of imprisonment, confiscation of property, and a lifetime ban on government service. According to the court, Nurabayev systematically schemed to take bribes from businessmen in exchange for subsoil contracts in various regions of the country. He was caught accepting a bribe of $20,000 in March 2017.

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

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

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

The Ministry of Foreign Affairs-led Consultative Advisory Body (CAB) for dialogue on democracy, human rights, rule of law, and legislative work continued to operate during the year. The CAB includes government ministries and prominent international and domestic NGOs, as well as international organization observers. The NGO community generally was positive regarding the work of the CAB, saying the platform enabled greater communication with the government regarding issues of concern. The government and NGOs, however, did not agree on recommendations on issues the government considered sensitive, and some human rights concerns were barred from discussion. NGOs reported that government bodies accepted some recommendations, although, according to the NGOs, the accepted recommendations were technical rather than substantive.

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

The United Nations or Other International Bodies: The government invited UN special rapporteurs to visit the country and meet with NGOs dealing with human rights. The government generally did not prevent other international NGOs and multilateral institutions dealing with human rights from visiting the country and
meeting with local human rights groups and government officials. National security laws prohibit foreigners, international organizations, NGOs, and other nonprofit organizations from engaging in political activities. The government prohibited international organizations from funding unregistered entities.

**Government Human Rights Bodies:** The Presidential Commission on Human Rights is a consultative and advisory body that includes top officials and members of the public appointed by the president. The commission reviews and investigates complaints, issues recommendations, monitors fulfillment of international human rights conventions, and publishes reports on some human rights issues in close cooperation with several international organizations, such as UNHCR, the OSCE, the IOM, and UNICEF. The commission does not have legal authority to remedy human rights violations or implement its recommendations in the reports.

A recent constitutional change stipulated that the Human Rights Ombudsman be selected by the Senate; however, the existing ombudsman was appointed by the president. He also serves as the chair of the Coordinating Council of the National Preventive Mechanism against Torture.

The ombudsman did not have the authority to investigate complaints concerning decisions of the president, heads of government agencies, parliament, cabinet, Constitutional Council, Prosecutor General’s Office, CEC, or courts, although he may investigate complaints against individuals. The ombudsman’s office has the authority to appeal to the president, cabinet, or parliament to resolve citizens’ complaints; cooperate with international human rights organizations and NGOs; meet with government officials concerning human rights abuses; visit certain facilities, such as military units and prisons; and publicize in media the results of investigations. The ombudsman’s office also published an annual human rights report. During the year the ombudsman’s office occasionally briefed media and issued reports on complaints it had investigated.

Domestic human rights observers indicated that the ombudsman’s office and the Human Rights Commission were unable to stop human rights abuses or punish perpetrators. The commission and ombudsman avoided addressing underlying structural problems that led to human rights abuses, although they advanced human rights by publicizing statistics and individual cases and aided citizens with less controversial social problems and issues involving lower-level elements of the bureaucracy.

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

Rape and Domestic Violence: The law criminalizes rape. The punishment for conviction of rape, including spousal rape, ranges from three to 15 years’ imprisonment. There were reports of police and judicial reluctance to act on reports of rape, particularly in spousal rape cases.

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

NGOs estimated that on average 12 women each day were subjected to domestic violence and more than 400 women died annually as a result of violence sustained from their spouses. Due in part to social stigma, research conducted by the Ministry of National Economy indicated that a majority of victims of partner abuse never told anyone of their abuse. Police intervened in family disputes only when they believed the abuse was life-threatening. Police often encouraged the two parties to reconcile.

On January 22, the Karatau District Court in Shymkent sentenced Khairulla Narmetov to 3.5 years in jail for injuring his wife Umida. In November 2017 he had attacked her with a knife and injured her severely. After a difficult six-hour surgery, doctors managed to save her life. During the court trial, Umida forgave her husband “for the sake of the children,” she said.

The government opened domestic violence shelters in each region. According to the NGO Union of Crisis Centers, there were 28 crisis centers, which provided reliable services to victims of domestic violence. Of these crisis centers, approximately a dozen have shelters.
Other Harmful Traditional Practices: Although prohibited by law, the practice of kidnapping women and girls for forced marriage continued in some remote areas. The law prescribes a prison sentence of eight to 10 years for conviction of kidnapping. A person who voluntarily releases an abductee is absolved of criminal responsibility; because of this law, a typical bride kidnapper is not necessarily held criminally responsible. Law enforcement agencies often advised abductees to sort out their situation themselves. According to civil society organizations, making a complaint to police could be a very bureaucratic process and often subjected families and victims to humiliation.

Sexual Harassment: Sexual harassment remained a problem. No law protects women from sexual harassment, and only force or taking advantage of a victim’s physical helplessness carries criminal liability in terms of sexual assault. In no instance was the law used to protect the victim, nor were there reports of any prosecutions.

According to studies conducted by NGOs, half of all working women (53 percent) were subject to sexual advances from male supervisors and 14 percent received advances from colleagues. None of those women reached out to police with complaints due to shame or fear of job loss.

In March a group of NGOs and media activists set up Korgau123, an organization to support victims of harassment, and launched a hotline.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

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

Children

In 2016 the president issued a decree to establish the Office of the Commissioner for Child Rights (Children’s Ombudsman) to improve the national system of child rights protection.
Birth Registration: Citizenship is derived both by birth within the country’s territory and from one’s parents. The government registers all births upon receipt of the proper paperwork, which may come from the parents, other interested persons, or the medical facility where the birth occurred. Children born to undocumented mothers were denied birth certificates.

Child Abuse: School violence was a problem, and experts estimated two of three schoolchildren suffered or witnessed violence. Violence and abuse were particularly serious in boarding schools and orphanages. An estimated 17,000 to 18,000 children suffered from either psychological or physical abuse by their parents. According to UNICEF, 75 percent of the public supported the use of violent methods of disciplining children, and children faced violence at home, schools, children’s group homes, and on the street. Humanium, an international child rights NGO, reported that mistreatment was becoming rarer, but still occurred regularly in boarding schools, foster homes, and prisons and detention centers. Children who were victims of such violence did not have easy access to adequate complaint mechanisms.

There were reports of selling newborn babies.

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

Sexual Exploitation of Children: The law does not specify the minimum age for consensual sex, but it provides for eight to 15 years in prison for individuals convicted of forcing boys or girls younger than age 18 to have sexual intercourse. The Children’s Ombudsman noted that the number of sexual violence incidents reported increased 38 percent compared with the previous year.

The law criminalizes the production and distribution of child pornography and provides administrative penalties to cover the sale of pornographic materials to minors. The country retains administrative penalties for child pornography. Perpetrators convicted of sexual offenses against minors receive a lifetime ban on working with children.
Displaced Children: Human rights observers noted that the number of street children, mainly in large cities, was high. According to the Children’s Ombudsman, the number of street children was increasing. The Children’s Rights Protection Committee reports that 1,422 street children, 233 orphans, 21 delinquent children and 12 children from problematic families were referred to Centers for Delinquent Children in the first quarter of the year. Of the total, 1,371 were returned to their families. The remaining children were sent to orphanages (97), foster families (33), or correctional boarding schools (22).

Institutionalized Children: Incidents of child abuse in state-run institutions, such as orphanages, boarding schools, and detention facilities for delinquent children, were “not rare,” according to government sources. NGOs stated one-half the children in orphanages or closed institutions suffered from abuse by teachers or other children. According to the Children’s Rights Protection Committee, the number of orphans who lived in orphanages decreased from approximately 7,000 in 2016 to 6,223 in 2017. The rest of the 27,274 orphan children were in foster or other home care.


Anti-Semitism

Leaders of the Jewish community estimated that the country’s Jewish population was approximately 10,000. They 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 http://www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, and access to health care, and in the provision of other government services, but significant
discrimination existed. The government took steps to remedy some barriers to persons with disabilities, including providing access to information. NGOs stated implementation of the law on disability was lacking.

The law requires companies to set aside 3 percent of their jobs for persons with disabilities, and the government enacted high-level enforcement measures to enhance economic opportunities as part of the president’s strategy 2050; nevertheless, there were reports persons with disabilities faced difficulty integrating into society and finding employment. The government identified the two biggest barriers facing persons with disabilities as poor infrastructure and lack of access to education, while persons with disabilities expressed difficulty accessing public transportation.

Human rights observers noted multiple types of discrimination against persons with disabilities: some airlines refused to sell tickets to persons with disabilities seeking to travel alone and insisted that they should be escorted by assistants; doctors discouraged women who use wheelchairs from having children; and treatment of prisoners with disabilities in detention facilities remained a serious problem.

The government did not legally restrict the right of persons with disabilities to vote and arranged home voting for individuals who could not travel to accessible polling places.

There are no regulations regarding the rights of patients in mental hospitals. Human rights observers believed this led to widespread abuse of patients’ rights. NGOs reported that patients often experienced poor conditions and a complete lack of privacy. Citizens with mental disabilities may be committed to state-run institutions without their consent or judicial review, and the government committed young persons under the age of 18 with the permission of their families. According to an NPM report, most of the hospitals required extensive maintenance. Other problems observed included shortage of personnel, unsatisfactory sanitary conditions, poor food supply, overcrowding, and lack of light and air.

Members of the NPM may visit mental hospitals to monitor conditions and signs of possible torture of patients, but any institutions holding children, including orphanages, were not on the list of institutions NPM members may visit.

**National/Racial/Ethnic Minorities**
Kazakh is the official state language, although Russian has equal status as the language of interethnic communication. The law requires presidential candidates to be fluent in Kazakh. The Constitution prohibits discrimination based on language, but all prospective civil servants are required to pass a Kazakh language exam.

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

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

Although gender reassignment documentation exists, the law requires a transgender person to fulfill psychiatric and physical requirements before being able to receive identity documents that align with the person’s outward gender. Many individuals lived with nonconforming documents for years and reported problems with securing employment, housing, and health care.

There were no prosecutions of anti-LGBTI violence. Although there were no government statistics on discrimination or violence based on sexual orientation or gender identity, there were reports of such actions. According to an NGO survey within the LGBTI community, 48 percent of respondents experienced violence or hate because of their sexual orientation, and 56 percent responded they knew someone who suffered from violence. The most frequent forms of abuse were verbal insults, harassment, interference in private life, and physical assaults.

NGOs reported members of the LGBTI community seldom turned to law enforcement agencies to report violence against them because they feared hostility, ridicule, and violence. They were reluctant to use mechanisms such as the national commissioner for human rights to seek remedies for harms inflicted because they did not trust these mechanisms to safeguard their identities, especially with regard to employment.

**HIV and AIDS Social Stigma**

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

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for workers’ right to unionize, but limits workers’ freedom of
association. The trade union law amended in July 2017, restricts workers’ freedom
of association by requiring existing independent labor unions to affiliate with
larger, progovernment unions at the industry, sector, or regional level and by
erecting significant barriers to the creation of independent unions.

In January 2017 a southern regional court cancelled the registration of the
Confederation of the Independent Trade Unions of Kazakhstan (CITUK), ordering
its liquidation and removal from the national register. The Federation of Trade
Unions of the Republic of Kazakhstan (FTUK) is the successor to state-sponsored
Soviet-era labor organizations and the largest national trade union association, with
approximately 90 percent of union members on its rolls. The government
exercised considerable influence on organized labor and favored state-affiliated
unions over independent ones. Critics charged that the FTUK was too close to the
government to advocate for workers effectively, was biased in favor of large
employers and oligarchs, and that the law helped the FTUK in its unfair
competition against independent labor unions.

In May the former chair of the Oil Construction Company (OCC) Trade Union,
Amin Yeleussinov, who was sentenced to two years in prison in January 2017, was
released on parole. Nurbek Kushakbaev, vice-chairperson of CITUK who was
sentenced to two and a half years in April 2017, was also released on parole in
May. Civil society organizations called for their convictions—as well as that of
former chairman of CITUK, Larisa Kharkova—to be vacated. On June 6, the
Appeals Court of the Mangystau Region revoked a April 11 ruling of the region’s
economic court to close down the OCC Trade Union as illegal and returned the
case for further review.

On September 25, police opened a criminal investigation into Yerlan Baltabay, the
leader of an independent union of petrochemical workers in Shymkent, following a
complaint by a member of his union about financial violations. Police searched
Baltabay’s office and interrogated Baltabay without disclosing the nature of the
charges against him. On October 18, authorities searched Baltabay’s house and
seized documents relating to the union. Human rights observers noted the parallels to the investigation and ultimate conviction of Larisa Kharkova in 2017, and alleged that Baltabay has been targeted for his independent labor union activism.

The law provides for the right of workers to bargain collectively. The law prohibits antiunion discrimination, and a court may order reinstatement of a worker fired for union activity. Penalties for violations of these provisions included fines and imprisonment of up to 75 days, but these penalties did not deter violations. According to the Ministry of Labor and Social Protection, 33.4 percent of working enterprises have collective agreements.

The law provides for the right to strike in principle but imposes onerous restrictions that make strikes unlikely. For example, the right to strike may be granted only after the dispute is brought to a reconciliatory commission for consideration. In addition by law there are a variety of circumstances in which strikes are illegal. A blanket legal restriction bars certain occupations from striking. Military and other security service members, emergency medical, fire, and rescue crews, as well as those who operate “dangerous” production facilities are forbidden to strike. By law such strikes are illegal.

Workers employed in the railway, transport and communications, civil aviation, health-care, and public utilities sectors may strike, but only if they maintain minimum services, do not interrupt nonstop production processes (such as metallurgy), and leave key equipment unaffected. Numerous legal limitations restrict workers’ right to strike in other industries as well. Generally, workers may not strike unless a labor dispute cannot be resolved through compulsory arbitration procedures. Decisions to strike must be taken in a meeting where at least one-half of an enterprise’s workers are present. A written notice announcing a strike must be submitted to the employer at least five days in advance.

Employers may fire striking workers after a court declares a strike illegal. The law also enables the government to target labor organizers whose strikes are deemed illegal, including by imposing criminal charges and up to three years in prison for conviction of participation in strikes declared illegal by the court.

The labor code limits worker rights to make claims on their employers. For example, its Article 12 requires employers to negotiate any labor-related act with official employee representatives. If there are multiple official representatives, they have five days in which to form a unified body to discuss the proposed act. If the group cannot come to consensus, the employer may accept the act without the
consent of the employees. Article 52 lists 25 reasons an employer may fire a worker.

Disagreements between unions and their employers may be presented to a tripartite commission composed of representatives of the government, labor unions, and employer associations. State-affiliated and independent labor unions participate in tripartite commissions. The tripartite commission is responsible for developing and signing annual agreements governing most aspects of labor relations.

Foreign workers have the right to join unions, but the law prohibits the operation of foreign unions and the financing of unions by foreign entities, such as foreign citizens, governments, and international organizations. Irregular migrants and self-employed individuals resided in the country were not per se exempt from the law. Approximately two million of the nine million economically active citizens were self-employed in the second quarter of the year.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, except when it is a consequence of a court sentencing or a condition of a state of emergency or martial law.

The penal code provides for punishment of convicted traffickers and those who facilitate forced exploitation and trafficking, including labor recruiters who hire workers through deliberately fraudulent or deceptive offers with the intent to subject them to forced labor or employers or labor agents who confiscate passports or travel documents to keep workers in a state of involuntary servitude. Conviction of trafficking in persons for the purpose of labor and sexual exploitation is punishable by up to 15 years in prison. Conviction of kidnapping and illegal deprivation of freedom with the purpose of labor or sexual exploitation is punishable by up to 10 years in prison with confiscation of assets; such penalties were sufficient.

The Ministry of Labor and Social Protection is responsible for conducting checks of employers to reveal labor law violations, including exploitation of foreign workers. The Ministry of Internal Affairs is responsible for identifying victims of forced labor and sexual exploitation and initiating criminal proceedings. The government effectively enforced the law in most cases. Police conducted interagency operations to find victims of forced labor. In 2017 police investigated 101 criminal cases on human trafficking, and courts convicted 29 traffickers.
including 20 for sexual exploitation, eight for labor exploitation, and one for another violation.

Migrant workers were considered most at risk for forced or compulsory labor. According to a 2016 IOM report, there were an estimated 950,000 migrants in the country, with the majority of migrant workers coming from Uzbekistan, but there were also lesser numbers from Tajikistan and Kyrgyzstan. Migrant workers found employment primarily in agriculture and construction. The Ministry of Labor and Social Protection is responsible for handling issues related to migrant labor. In 2017 the government adopted a new Concept of Migration policy for 2017-2021 and an accompanying implementation plan. Together, these changes addressed both internal and external modern challenges, such as the excess of low-skilled labor due to increased inflow of labor migrants from other Central Asian countries and the deficiency of high-skilled labor in some sectors of the economy due to a low-level of education.

Also see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

c. Prohibition of Child Labor and Minimum Age for Employment

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

The 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 and training criminal police in investigating the worst forms of child labor.

The law provides for non-criminal punishments for violations of the law, including written warnings, suspensions, terminations, the withdrawal of licenses for specific types of activities, administrative penalties or fines, and administrative arrest (only by court decision and only up to 15 days for violation of legislation in relation to minors). Such violations include employment of minors without an employment agreement, which is punishable by fine with suspension of the employer’s license. Untimely or incorrect payment of salaries, non-provision of vacation or time off,
excessive work hours, and discrimination in the workplace were also punishable by fines.

Prohibitions against the worst forms of child labor include criminal punishment under the penal code. Conviction of violation of minimum age employment in hazardous work is punishable up to five years in prison with or without a three-year ban on specific types of employment and activities. Conviction of engaging minors in pornographic shows or production of materials containing pornographic images of minors is punishable up to 10 years in prison; conviction of coercion of minors into prostitution is punishable up to 12 years in prison; conviction of kidnapping or illegal deprivation of freedom of a minor for the purpose of exploitation and trafficking in minors is punishable up to 15 years in prison, with a lifetime ban on activities and work with children. Such penalties were sufficient to deter violations.

NGOs reported child labor in domestic servitude, markets, construction sites, and activities such as car washes, cultivation of vegetables, and begging. For example, in 2017 seven children were found working in gas stations. Local NGOs indicated that child labor on family farms still exists in the seasonal production of cotton, and at least one child was found working in a cotton field in 2017. Media reported in 2017 a 16-year old boy died in a cotton field due to injuries suffered while loading cotton bales.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

Law and regulations prohibit discrimination with respect to employment and occupation based on gender, age, disability, race, ethnicity, language, place of residence, religion, political opinion, affiliation with tribe or class, public associations, or property, social, or official status. The law does not specifically prohibit discrimination with respect to employment and occupation based on sexual orientation, gender identity, HIV-positive status, or having other communicable diseases. The government effectively enforced the law and regulations. Discrimination is an administrative offense punishable by a fine up to 481,000 tenge ($1,332). Some cases like illegal termination of labor contracts due to pregnancy, disability, or minority are considered a criminal offense and are punishable if convicted by fine, detention for up to 50 days’, or deprivation of the right to hold certain posts or engage in certain work-related activities.
Discrimination, however, occurred with respect to employment and occupation for persons with disabilities, orphans, and former convicts. Disability NGOs reported that despite government efforts, obtaining employment was difficult for persons with disabilities. The law does not require equal pay for equal work for women and men. NGOs reported no government body assumed responsibility for implementing antidiscrimination legislation and asserted the law’s definition of gender discrimination does not comply with international standards. More women than men were self-employed or underemployed relative to their education level.

**e. Acceptable Conditions of Work**

During the year the national monthly minimum wage was comparable to the monthly subsistence income level. As of August, 1.3 million citizens of a nine-million person workforce were not registered as either employed or unemployed, meaning that they likely work in the informal economy. These workers are concentrated in the retail trade, transport services, agriculture, real estate, beauty and hair dressing salons, and laundry and dry cleaning businesses. Small entrepreneurs and their employees for the most part work without health, social, or pension benefits.

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

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

Overtime pay for holiday and after-hours work is equal to 1.5 times regular salary. The decision on pay is made by the employer or in compliance with a collective agreement, and the amount of pay is based on so-called industry-specific wage multipliers, stipulated by the industrial agreements.
On July 18, the Supreme Court ruled in favor of China National Petroleum Corporation-AktobeMunayGas, owned by China National Petroleum Corporation, which in February 2017 reduced the environmental allowance for 403 workers who reside in the ecologically challenging Aral Sea area from 50 percent to 20 percent. The company, supported by the Ministry of Labor and Social Protection, argued that only workers who both reside and work in the Aral Sea area are entitled to a 50 percent allowance. Those who resided in the Aral Sea area, but worked elsewhere, may claim only the 20 percent allowance.

The Ministry of Labor and Social Protection enforces the minimum wage, work-hour restrictions, overtime, and occupational safety and health standards. Under the entrepreneur code, labor inspectors have the right to conduct announced and unannounced inspections of workplaces to detect violations. Both types of inspections take place only after written notification. Inspections based on risk assessment reports are announced in writing not less than 30 days prior the beginning of the inspection. There has been a presidential moratorium on announced inspections since 2014. Unplanned inspections are announced not less than one day prior the beginning of the inspection. The resources of labor inspectors are limited. Ministry inspectors conducted random inspections of employers. As of March inspectors conducted 1,364 inspections, detected 2,104 violations of labor law, and levied 365 fines for a total amount of 64.3 million tenge (close to $178,000). In 2017 the ministry had 258 labor inspectors.

The Human Rights Commission reported that the number of inspectors was insufficient. Moreover, the 2015 labor code introduced so-called employer’s declarations. Under this system, labor inspectors may extend a certificate of trust to enterprises that complied with labor legislation requirements. Certified enterprises are exempt from labor inspections for the three-year period. In the opinion of labor rights activists, such a practice may worsen labor conditions and conceal problems. By law any enterprise or company may form a production council to address labor safety issues from representatives of an employer and employees. These councils are eligible to conduct their own inspections of the employees’ work conditions. As of January there were 12,855 production councils operating in the country. Formal training was provided to 10,952 of 17,914 volunteer labor inspectors.

There were reports some employers ignored regulations concerning occupational health and safety. Occupational safety and health conditions in the construction, industrial, and agricultural sectors often were substandard. Workers in factories
sometimes lacked quality protective clothing and sometimes worked in conditions of poor visibility and ventilation. As of September the government reported 975 workplace injuries, of which 133 resulted in death. The government attributed many labor-related deaths to antiquated equipment, insufficient detection and prevention of occupational diseases in workers engaged in harmful labor, and disregard for safety regulations. The most dangerous jobs were in mining, construction, and oil and gas, according to an expert analysis of occupations with the highest fatalities. The minister of labor and social protection reported that in 2017, 370,000 workers labored in hazardous conditions.

Some companies tried to avoid payments to injured workers. Critics reported that employers, the FTUK, and the Ministry of Labor and Social Protection were more concerned with bureaucracy and filling out reports on work-related accidents, than with taking measures to reduce their number. A minimal noncompliance with labor safety requirements may result in a company’s refusal to compensate workers for industrial injuries. In 30 percent of cases, workers themselves were blamed for violating occupational health and safety regulations.
Tab 3
EXECUTIVE SUMMARY

The Republic of Kazakhstan’s government system and constitution concentrate power in the presidency. The presidential administration controls the government, the legislature, and judiciary as well as regional and local governments. Changes or amendments to the constitution require presidential consent. The April 2015 presidential election, in which President Nazarbayev received 97.5 percent of the vote, was marked by irregularities and lacked genuine political competition. The president’s Nur Otan Party won 82 percent of the vote in the March 2016 election for the Mazhilis (lower house of parliament). The Organization for Security and Cooperation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR) observation mission noted some progress but judged the country continued to require considerable progress to meet its OSCE commitments for democratic elections. On June 26, Kazakhstan selected 16 of 47 senators, members of the parliament’s upper house, in an indirect election tightly controlled by local governors working in concurrence with the presidential administration.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included arbitrary or unlawful killings; detainee and prisoner torture and other abuse; arbitrary arrest and detention; harsh and sometimes life-threatening prison conditions; infringements on citizens’ privacy rights; and pervasive corruption and abuses by law enforcement and judicial officials. There were selective restrictions on freedoms of expression, press, assembly, religion, and association, including restrictions on the activities of nongovernmental organizations (NGOs). There were limits on citizens’ ability to choose their government in free and fair elections and prohibitive political party registration requirements. Additional problems included forced labor; and restrictive independent trade union registration requirements.

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

Section 1. Respect for the Integrity of the Person, Including Freedom from:
a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were reports the government or its agents committed arbitrary or unlawful killings or beatings that led to deaths.

On March 15, police detained a 29-year-old resident of Astana, Nikolay Krivenko, for disorderly behavior and vandalism. Police took him to a local center for medical and social rehabilitation where he was beaten to death. Police officer Berik Murzabekov was charged with abuse of power and intentional infliction of harm to health resulting in death by negligence. Three employees of the center, Sayat Satyn, Farkhat Kambetov, and Sumgat Temirgaliev, were charged with intentional infliction of harm to health resulting in death by negligence. On November 3, a district court in Astana sentenced Murzabekov to 10 years, and Satyn, Kambetov, and Temirgaliev to eight years of imprisonment.

There were no official reports of military hazing resulting in death; however, there were instances of several deaths that the official investigations subsequently presented as suicides. Family members made allegations that the soldiers died as a result of hazing.

On January 6, after two months in military service in an elite detachment of the army, 18-year-old Aset Zhusupov died as a result of a gun-shot injury to the head. Investigators were looking into the possibility of forced suicide. The case was under the principal military prosecutor’s special control.

Military hazing led to deaths, suicides, and serious injuries. On September 28, Private Urazgaliyev of Army Unit 32363 in Kapshagay died in the local hospital after a disagreement with the detachment commander, Sergeant Ramadin, who allegedly hit the conscript in the head. Urazgaliyev lost consciousness and was taken to the hospital, where he later died. Military prosecutors began an investigation of the incident, and Sergeant Ramadin was arrested. Due to the sensitivity of such cases, the Ministry of Defense rarely discloses additional information to the general public.

b. Disappearance

There were no reports of politically motivated disappearances.
c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

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

The National Preventive Mechanism (NPM) against Torture came into force in 2014 when the prime minister signed rules permitting the monitoring of institutions. Some observers commented that NPM staff lacked sufficient knowledge and training to recognize instances of torture. The NPM is part of the Office of the Human Rights Ombudsman and thus is not independent of the government. The human rights ombudsman reported during the year receiving 106 complaints alleging torture, violence, and other cruel and degrading treatment and punishment in 2016. In its March report covering activities in 2016, the NPM reported that despite some progress, problems with human rights violations in temporary detention centers remained serious. Concerns included poor health and sanitary conditions at detention facilities, high risk of torture by investigators to extract confessions, and a lack of secure channels for submission of complaints. The Public Monitoring Commission (PMC) corroborated that report and elaborated that torture typically occurred during the initial period of detention. There were reports suspects often were beaten during transit or in police stations.

The NGO Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR) recorded 115 complaints of torture in the first six months of 2016. In a separate report, the prosecutor general indicated 89 cases of torture in the first six months of the year. Not all cases led to prosecution or conviction. The NGO Penal Reform International (PRI) indicated that in 2016, 75 percent of the officially registered 1,460 complaints of torture occurred during the investigation stage. Four of the 350 officially registered criminal investigations of torture went to court trial during the first 10 months of the year.

In October 2016 the Zhezkazgan city court ruled that civil society activist and blogger Natalya Ulasik, known for her critical antigovernment posts in social media, would be placed in a high-security mental hospital, asserting she was insane and represented a danger to society. KIBHR experts reported inconsistencies in her psychiatric check-ups and court procedures, while the hospital’s psychiatric commission examined Ulasik and concluded that she presented no danger to society and could be treated in an outpatient clinic. On June 2, the Talgar district
court in Almaty region declined the hospital’s petition for release of Ulasik, who remained in a mental hospital.

**Prison and Detention Center Conditions**

Prison conditions were generally harsh and sometimes life threatening, and facilities did not meet international health standards. Health problems among prisoners went untreated in many cases, or prison conditions exacerbated them. Prisons still faced serious shortage of medical staff. The minister of internal affairs reported that tuberculosis incidence declined 37 percent compared with 2016.

**Physical Conditions:** According to PRI, although men and women were held separately and pretrial detainees were held separately from convicted prisoners, during transitions between temporary detention centers, pretrial detention, and prisons, youth often were held with adults.

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

To address infrastructural problems in prisons, the authorities closed eight prisons with the worst conditions during the recent years. The NPM reported continuing infrastructure problems in prisons, such as unsatisfactory sanitary and hygiene conditions, including poor plumbing and sewerage systems and unsanitary bedding. It also reported shortages of medical staff and insufficient medicine, as well as problems of mobility for prisoners with disabilities. In many places the NPM noted restricted connectivity with the outside world and limited access to information about prisoners’ rights. PRI reported there was a widespread lack of heating and adequate ventilation in prisons, noting that in some cases extreme temperatures threatened the health of the inmates.

The minister of internal affairs claimed that the number of deaths in prisons declined 17 percent compared with 2016. The government did not publish statistics on the number of suicides or attempted suicides in pretrial detention centers or prisons during the year.

According to the Prosecutor General’s Office, 42 cases of disobedience by prisoners including group actions of disobedience were registered in the first six months.
Administration: The law does not allow unapproved religious services, rites, ceremonies, meetings, or missionary activity in prisons. By law a prisoner in need of “religious rituals” or his relatives may ask to invite a representative of a registered religious organization to carry out religious rites, ceremonies, or meetings, provided they do not obstruct prison activity or violate the rights and legal interests of other individuals. Radio Azattyk reported that Muslim prisoners were not allowed to fast during Ramadan and were punished for violations of the prison internal rules during bedtime.

Independent Monitoring: There were no independent international monitors of prisons. The local independent monitoring group PMC visited approximately 340,340 facilities during the first six months of 2016.

Improvements: The 2015 criminal code introduced alternative sentences, including fines and public service, but human rights activists noted they were not implemented effectively.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but the practice occurred. The government did not provide statistics on the number of individuals unlawfully detained during the year. The prosecutor general reported that during the first six months of the year the number of individuals illegally detained and brought to police decreased by 54.3 percent compared with the same period in 2016. Prosecutors released 37 individuals who were unlawfully held in police cells and offices. According to the prosecutor general, bail was used extensively and 27.2 percent of all suspects in custody were released on bail.

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 of Civil Service Affairs and Anticorruption has administrative and criminal investigative powers. The Committee for National Security (KNB) plays a role in border security, internal and national security, antiterrorism efforts, and the investigation and interdiction of illegal or unregistered groups, such as extremist groups, military groups, political parties, religious groups, and trade unions. On July 4, President Nazarbayev signed legislative amendments on a reform of the law enforcement agencies, including
one giving power to the KNB to investigate corruption by officers of the secret services, anticorruption bureau, and military. The KNB, Syrbar (the foreign intelligence service), and the Agency of Civil Service Affairs and Anticorruption all report directly to the president. Many government ministries maintained blogs where citizens could register complaints.

Although the government took some steps to prosecute officials who committed abuses, impunity existed, especially where corruption was involved or personal relationships with government officials were established.

**Arrest Procedures and Treatment of Detainees**

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

The arrest must be approved by the court. It is a three-step procedure: (1) the investigator collects all evidence to justify the arrest and takes all materials of the case to the prosecutor; (2) the prosecutor studies the evidence and takes it to court within 12 hours; and (3) the court proceeding is held with the participation of the criminal suspect, his/her lawyer, and the prosecutor. If within 72 hours of the arrest the administration of the detention facility has not received a court decision approving the arrest, the administration should immediately release him/her and notify the officer who handles the case and the prosecutor. The court may choose other forms of restraint: house arrest, restriction of movement, or a written requirement not to leave the city/place of residence.

According to human rights activists, these procedures were frequently ignored.

Authorized bail procedures exist but were not used in many cases. Instead, prolonged pretrial detentions were commonplace.
Detainees may be held in pretrial detention for up to two months. The term may be extended up to 18 months if the investigation continues. Upon the completion of the investigation, the investigator puts together an official indictment. The materials of the case are shared with the defendant and then sent to the prosecutor, who has five days to check the materials and forward them to the court.

Although the judiciary has the authority to deny or grant arrest warrants, judges authorized prosecutor warrant requests in the vast majority of cases. 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 2015 criminal procedure code obliges police to inform detainees about their rights, including the right to an attorney. Human rights observers alleged that prisoners were constrained in their ability to communicate with their attorneys, that penitentiary staff secretly recorded conversations, and that staff often remained present during the meetings between defendants and attorneys. In August Almaty attorney Johar Utebekov reported he found a wiretapping device in the conference room in the KNB pretrial investigation detention facility in Almaty where he met with his client, Muratkhan Tokmadi. The attorney filed an official complaint with the Prosecutor General’s Office but had not received a response.

The human rights ombudsman reported 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 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, but public defenders often lacked the necessary experience and training to assist defendants. Defendants are barred from freely choosing their defense counsel if the cases against them involve state secrets. The law allows only lawyers who have special clearance to work on such cases.

**Arbitrary Arrest:** Prosecutors reported five incidents of arbitrary arrest and detention in the first six months of the year.

The government frequently arrested and detained political opponents and critics, sometimes for minor infractions, such as unsanctioned assembly, that led to fines or up to 10 days’ administrative arrest. By law detainees may remain in pretrial
detention for up to two months. Depending on the complexity and severity of the alleged offense, authorities may extend the term for up to 18 months while the investigation takes place. The pretrial detention term may not be longer than the potential sentence for the offense.

**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 alleged that authorities often used this phase of detention to torture, beat, and abuse inmates to extract confessions.

The 2015 criminal code introduced the concept of conditional release on bail. The bail system is designed for persons who commit a criminal offense for the first time or for a crime of minor or moderate severity not associated with causing death or grievous bodily harm to the victim, provided that the penalties for committing such a crime contain a fine as an alternative penalty.

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

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

e. **Denial of Fair Public Trial**

The law does not provide for an independent judiciary. The executive branch sharply limited judicial independence. Prosecutors enjoyed a quasi-judicial role and have 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 many criminal and civil cases.

Corruption in the judicial system was widespread. Bribes and irregular payments were regularly exchanged in order to obtain favorable court decisions. In many
cases the courts were controlled by the interests of the ruling elite, according to Freedom House’s *Nations in Transit* report for 2017. Accordingly, public trust in the impartiality of the judicial system was low, and citizens held little expectation that justice would be dispensed professionally in court proceedings, as noted in the *Nations in Transit* report for 2016. Recruitment of judges was plagued by corruption, and becoming a judge often required bribing various officials, according to the Bertelsmann Stiftung’s *Transformation Index* report for the year.

Business entities were reluctant to approach courts because foreign businesses have a historically poor record when challenging government regulations and contractual disputes within the local judicial system. Judicial outcomes were perceived as subject to political influence and interference due to a lack of independence. A dedicated investment dispute panel was established in 2016, yet investor concerns over the panel’s independence and strong bias in favor of government officials remained. Companies expressed reluctance to seek foreign arbitration because anecdotal evidence suggested the government looks unfavorably on cases involving foreign judicial entities.

Moriak Shegenov, the chair of the Supreme Court judicial ethics panel, said at a July 24 extended conference meeting of the Supreme Court that two judges had been held liable for serious crimes: one for taking a bribe and another for knowingly issuing an illegal ruling. During the first six months of the year, 32 judges were punished for violations of judicial ethics: 12 judges were warned, 14 reprimanded, and six were dismissed.

Military courts have jurisdiction over civilian criminal defendants in cases allegedly connected to military personnel. 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 under the law. Trials are public except in instances that could compromise state secrets or when necessary to protect the private life or personal family concerns of a citizen.

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

Observers noted the juror selection process was inconsistent. Judges exerted pressure on jurors and could easily dissolve a panel of jurors for perceived disobedience of their orders. The law has no mechanism for holding judges liable for such actions.

Indigent defendants in criminal cases have the right to counsel and a government-provided attorney. By law a defendant must be represented by an attorney when the defendant is a minor, has mental or physical disabilities, does not speak the language of the court, or faces 10 or more years of imprisonment. Defense attorneys, however, reportedly participated in only one half of criminal cases, in part because the government failed to pay them properly or on time. The law also provides defendants the rights 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, prosecutors dominated trials, and defense attorneys played a minor role.

Domestic and international human rights organizations reported numerous problems in the judicial system, including lack of access to court proceedings, lack of access to government-held evidence, frequent procedural violations, denial of defense counsel motions, and failure of judges to investigate allegations that authorities extracted confessions through torture or duress.

Lack of due process remained a problem, particularly in a handful of politically motivated trials involving opposition activists and in cases in which there were allegations of improper political or financial influence. In its Nations in Transit 2016 report, Freedom House noted that the courts were subservient to the executive branch and “convicted public figures brought to trial on politically motivated charges, often without credible evidence or proper procedures.”

Human rights and international observers noted investigative and prosecutorial practices that emphasized a confession of guilt over collection of other evidence in building a criminal case against a defendant. Courts generally ignored allegations by defendants that officials obtained confessions by torture or duress.

**Political Prisoners and Detainees**
A group of civil society activists maintained a list of individuals they considered detained or imprisoned based on politically motivated charges, including land code activists Maks Bokayev and Talgat Ayan, labor union leader Larissa Kharkova, and *Independent Tribuna* newspaper’s chief editor, Zhanbolat Mamay.

Land code activists Maks Bokayev and Talgat Ayan were sentenced in November 2016 to five years in prison for organizing peaceful land reform protests. Despite the requirement of the law that prisoners should be referred to a penitentiary facility close to their homes, the two activists were sent to a northern prison 1,240 miles from their hometown, spending several weeks in transit in difficult conditions.

On April 7, Aktau labor movement activist Nurbek Kushakbayev was sentenced to two-and-one-half years in prison for calls to continue a labor strike after the court ruled the strike to be illegal. On May 5, labor movement activist Amin Yeleusinov was sentenced to two years in prison for alleged embezzlement of the labor union’s funds. Human rights activists and international organizations condemned the trials as politically motivated.

On July 25, a Shymkent district court found the leader of the Confederation of Independent Trade Unions of Kazakhstan, Larissa Kharkova, guilty of abuse of power, placing her on probation for four years with limitations on her freedom of movement, confiscating her property, and preventing her from leading any public and non-commercial organizations for five years. Initially, Kharkova was accused of embezzlement, but during the trial the charge was replaced with abuse of power.

On September 7, *Independent Tribuna* newspaper chief editor Zhanbolat Mamay was convicted of money laundering, sentenced to three years of probation, and banned from journalistic activity for three years. He was arrested on February 10 and charged with money laundering related to the fugitive ex-banker Mukhtar Ablyazov’s case.

**Civil Judicial Procedures and Remedies**

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

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

The law provides prosecutors with extensive authority to limit citizens’ constitutional rights. The KNB, the Ministry of Internal Affairs, and other agencies, with the concurrence of the Prosecutor General’s Office, may infringe on the secrecy of private communications and financial records, as well as on the inviolability of the home. Human rights activists reported incidents of alleged surveillance, including KNB officers’ visits to activists and their families’ homes for “unofficial” conversations about suspect activities, wiretapping and recording of phone conversations, and videos of private meetings posted on social media.

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

Government opponents, human rights defenders, and their family members continued to report the government occasionally monitored their movements.

On July 27, the prime minister transferred the State Technical Service for centralized management of telecommunication networks, for the internet access single gateway, and for monitoring of information systems from the Ministry of Information and Communication to the KNB.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

While the constitution provides for freedom of speech and of the press, the government limited freedom of expression and exerted influence on media through a variety of means, including laws, harassment, licensing regulations, internet restrictions, and criminal and administrative charges. Judicial actions against journalists and media outlets, including civil and criminal libel suits filed by government officials encouraged self-censorship. The law provides for additional measures and restrictions during “social emergencies,” defined as “an emergency on a certain territory caused by contradictions and conflicts in social relations that may cause or have caused loss of life, personal injury, significant property damage,
or violation of conditions of the population.” In these situations the government may censor media sources by requiring them to provide their print, audio, and video information to authorities 24 hours before issuance or broadcasting for approval. Political parties and public associations may be suspended or closed should they obstruct the efforts of security forces. Regulations also allow the government to restrict or ban copying equipment, broadcasting equipment, and audio and video recording devices and to seize temporarily sound-enhancing equipment.

During a September altercation between foreign workers, mostly Indian construction workers, and local security at a major construction site in Astana, which resulted in dozens of foreign workers being deported, citizens reported that access to social media, including Facebook, YouTube, Instagram, and WhatsApp, was partially or fully blocked in multiple instances. The government denied responsibility and said that technical difficulties were to blame.

Freedom of Expression: The government limited individual ability to criticize the country’s leadership, and regional leaders attempted to limit criticism of their actions in local media. The law prohibits insulting the president or the president’s family, and penalizes “intentionally spreading false information” with fines of up to 12.96 million tenge ($40,000) and imprisonment for up to 10 years.

On January 24, the Astana city court found the chief editor of Central Asia Monitor newspaper and Radiotochka.kz web portal Bigeldy Gabdullin guilty of extortion in return for nonpublication of negative information about wrongdoing. According to several media outlets, including Zakon.kz, Kazinform, Tengrinews.kz, and Ratel.kz, Gabdullin admitted his guilt in full, repented, and restituted the injured parties’ material losses. The court sentenced Gabdullin to five years of probation.

On February 17, police stopped the Aktau reporter of Radio Azattyk, Sania Toiken, under the pretext she did not have a seat belt fastened. Police took her to a station for interrogation in regards to the oil workers’ hunger strike she witnessed in her reporting work. Police held her in the station for two hours, causing her to miss the regional governor’s press conference.

The Independent Tribuna newspaper’s chief editor, Zhanbolat Mamay, was arrested on February 10 and charged with money laundering. The Tribuna newspaper has been a target of investigation and litigation since its founding in 2012. The newspaper closed in June after Mamay’s arrest. On September 7, the
Medeu district court in Almaty found him guilty of money laundering and sentenced him to three years of restriction of freedom, confiscation of property, and a three-year ban on journalistic activity.

Press and Media Freedom: Many privately owned newspapers and television stations received government subsidies. The lack of transparency in media ownership and the dependence of many outlets on government contracts for media coverage are significant problems. Companies allegedly controlled by members of the president’s family or associates owned many of the broadcast media outlets that the government did not control outright. According to media observers, the government wholly or partly owned most of the nationwide television broadcasters. Regional governments owned several frequencies, and the Ministry of Information and Communication distributed those frequencies to independent broadcasters via a tender system.

All media are required to register with the Ministry of Information and Communication, although websites are exempt from this requirement. The law limits the simultaneous broadcast of foreign-produced programming to 20 percent of a locally based station’s weekly broadcast time. This provision burdened smaller, less-developed regional television stations that lacked resources to create programs, although the government did not sanction any media outlet under this provision. Foreign media broadcasting does not have to meet this requirement.

Violence and Harassment: According to the NGO Adil Soz, through October authorities prevented reporters from carrying out their duties in 30 instances. Adil Soz found that authorities denied or significantly restricted journalists’ access to public information 138 times.

Journalists working in opposition media and covering stories related to corruption reported harassment and intimidation by government officials and private actors. According to media watchdog organization Adil Soz, the internet portal Zhumyrtkakz News closed on January 24 as a result of threats of criminal persecution and prison sentences for their publications.

On March 2, the Kapshagay city court ruled that, pursuant to the amnesty law, the prison term for the president of the Kazakhstan Union of Journalists, Seitkazy Matayev, should be cut in half. On November 16, the Kapshagay city court ruled to release Matayev, and he was released from prison on December 4.
Censorship or Content Restrictions: The law enables the government to restrict media content through amendments that prohibit undermining state security or advocating class, social, race, national, or religious discord. Owners, editors, distributors, and journalists may be held civilly and criminally responsible for content unless it came from an official source. The government used this provision to restrict media freedom.

The law allows the prosecutor general to suspend access to the internet and other means of communication without a court order. The prosecutor general may suspend communication services in cases where communication networks are used “for criminal purposes to harm the interests of an individual, society, or the state, or to disseminate information violating the Election Law… or containing calls for extremist or terrorist activities, riots, or participation in large-scale (public) activities carried out in violation of the established order.”

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

In July Uralsk police opened a criminal investigation against blogger Aibolat Bukenov for allegedly disseminating false information presenting a danger to the public order or the rights and legal interests of citizens or organizations. On Facebook, Bukenov posted his criticism of the Uralsk government spending 25 million tenge (approximately $77,000) for a pyramid of flowers. He opined that that money should have been spent on road repairs instead. On January 10, a court in Almaty found activist Zhanar Akhmet guilty of illegally organizing a rally. She posted a call to her followers to attend an appeal hearing on the case of movie director Talgad Zhanybekov to support him during his trial. Zhanar Akhmet was found guilty and punished by an administrative fine of 113,450 tenge ($350).

Libel/Slander Laws: The law provides enhanced penalties for libel against senior government officials. Private parties may initiate criminal libel suits without independent action by the government, and an individual filing such a suit may also file a civil suit based on the same allegations. Officials used the law’s libel and defamation provisions to restrict 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, encouraged self-censorship at each level.

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

NGOs reported libel cases against journalists and media outlets remained a problem. Media freedom NGO Adil Soz reported 13 criminal libel charges and 73 civil libel lawsuits filed against journalists and media.

On April 4, a district court in Almaty ruled in favor of ex-minister Zeinulla Kakimzhanov’s lawsuit claims against Forbes Kazakhstan magazine and news site Ratel.kz, assigning 50.2 million tenge ($155,000) in damages as compensation for a story “harming Kakimzhanov’s honor and dignity.” Media and civil society activists criticized the court proceedings for a number of procedural violations.

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

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

The law prohibits publication of any statement that promotes or glorifies “extremism” or “incites social discord,” terms that international legal experts noted the government did not clearly define. The government subjected to intimidation media outlets that criticized the president; such intimidation included law enforcement actions and civil suits. Although these actions continued to have a chilling effect on media outlets, some criticism of government policies continued. Incidents of local government pressure on media continued.
Internet Freedom

Observers reported the government blocked or slowed access to opposition websites. Many observers believed the government added progovernment postings and opinions in internet chat rooms. The government regulated the country’s internet providers, including majority state-owned Kazakhtelecom. Nevertheless, websites carried a wide variety of views, including viewpoints critical of the government. Official statistics reported more than 70 percent of the population had internet access in 2016.

The Ministry of Information and Communication controlled the registration of “.kz” internet domains. Authorities may suspend or revoke registration for locating servers outside the country. Observers criticized the registration process as unduly restrictive and vulnerable to abuse.

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

NGO Adil Soz reported that during the first nine months of 2016, courts blocked 55 websites for “propaganda of religious extremism and terrorism.”

In several cases the government denied it was behind the blocking of websites. Bloggers reported anecdotally their sites were periodically blocked, as did the publishers of independent news sites. On June 15, James Palmer, a reporter for Foreign Policy magazine, published an article critical of government expenditure for Expo 2017. Two days later, the magazine’s website was blocked in Kazakhstan and an Expo spokesperson made a statement asserting Palmer never visited the country and fabricated the story. The Minister of Information published a statement denying the government blocked the website.

Government surveillance was also prevalent. According to the Freedom on the Net 2017 report, “the government centralized internet infrastructure in a way that facilitated control of content and surveillance.” Authorities, both national and local, monitored the internet traffic and online communications. The Freedom on the Net report stated that “activists using social media were occasionally intercepted or punished, sometimes preemptively, by authorities who had prior knowledge of their planned activities.”
Freedom on the Net reported during the year that the country maintained a system of operative investigative measures that allowed the government to use surveillance methods called Deep Packet Inspection (DPI). While Kazakhtelecom maintained that it used its DPI system for traffic management, there were reports that Check Point Software Technologies installed the system on its backbone infrastructure in 2010. The report added that a regulator adopted a new internet monitoring technology, the Automated System of Monitoring the National Information Space.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

Freedom of Peaceful Assembly

The law provides for limited freedom of assembly, but there were significant restrictions on this right. The law defines unsanctioned gatherings, public meetings, demonstrations, marches, picketing, and strikes that upset social and political stability as national security threats.

The law includes penalties for organizing or participating in illegal gatherings and for providing organizational support in the form of property, means of communication, equipment, and transportation, if the enumerated actions cause significant damage to the rights and legal interests of citizens, entities, or legally protected interests of the society or the government.

By law organizations must apply to local authorities at least 10 days in advance for a permit to hold a demonstration or public meeting. 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 local authorities turned down many applications for demonstrations or only allowed them to take place outside the city center.
Authorities often briefly detained and fined organizers of unsanctioned gatherings. The NGO KIBHR, which monitored demonstrations in nine cities, recorded 19 peaceful demonstrations during 2016, none of which were sanctioned by the government.

On July 30, a group of civil society activists in Almaty gathered in Gandhi Park and marched to the central post office to send letters to Western leaders to draw attention to political prisoners in the country. The next day, an Almaty court sentenced two organizers of the march to three and five days’ administrative arrest for violation of the law on organization of peaceful rallies, gatherings, and demonstrations.

On February 23, the leader of the Young Professionals Society NGO, Olesya Halabuzar, was charged for disseminating leaflets criticizing proposed constitutional amendments during the public discussion period on the amendments, specifically an amendment that could potentially allow land sales to foreign investors. Halabuzar cooperated with the investigators, and at their order she publicly acknowledged guilt and announced she would cease public activity. On August 1, the Almaty court found her guilty of incitement of interethnic discord and sentenced her to two years of probation. Human rights defenders noted numerous procedural violations in her case, but Halabuzar decided not to appeal the ruling.

Freedom of Association

The law provides for limited freedom of association, but there were significant restrictions on this right. Any public organization set up by citizens, including religious groups, must be registered with the Ministry of Justice, as well as with the local departments of justice in every region in which the organization conducts activities. The law requires public or religious associations to define their specific activities, and any association that acts outside the scope of its charter may be warned, fined, suspended, or ultimately banned. Participation in unregistered public organizations may result in administrative or criminal penalties, such as fines, imprisonment, the closure of an organization, or suspension of its activities.

NGOs reported some difficulty in registering public associations. According to government information, there were discrepancies in the submitted documents. The special rapporteur encouraged authorities to facilitate the formation of public associations proactively, since they could play a crucial role in advancing human rights and development.
Membership organizations other than religious groups, covered under separate legislation, must have at least 10 members to register at the local level and must have branches in more than one-half the country’s regions for national registration. The government considered political parties and labor unions to be membership organizations but required political parties to have 40,000 signatures for registration. If authorities challenge the application by alleging irregular signatures, the registration process may continue only if the total number of eligible signatures exceeds the minimum number required. The law prohibits parties established on an ethnic, gender, or religious basis. The law also prohibits members of the armed forces, employees of law enforcement and other national security organizations, and judges from participating in trade unions or political parties.

According to Maina Kiai, the UN special rapporteur who visited Kazakhstan in 2015, the law regulating the establishment of political parties is problematic as it imposes onerous obligations prior to registration, including high initial membership requirements that prevent small parties from forming and extensive documentation that requires time and significant expense to collect. He also expressed concern regarding the broad discretion granted to officials in charge of registering proposed parties, noting that the process lacked transparency and the law allows for perpetual extensions of time for the government to review a party’s application.

Under the 2015 NGO financing law, all “nongovernment organizations, subsidiaries, and representative offices of foreign and international noncommercial organizations” are required to provide information on “their activities, including information about the founders, assets, sources of their funds and what they are spent on....” An “authorized body” may initiate a “verification” of the information submitted based on information received in mass media reports, complaints from individuals and entities, or other subjective sources. Untimely or inaccurate information contained in the report, discovered during verification, is an administrative offense and may carry fines up to 53,025 tenge ($159) or suspension for three months in case the violation is not rectified or is repeated within one year. In extreme cases criminal penalties are possible, which may lead to a large fine, suspension, or closure of the organization.

The law prohibits illegal interference by members of public associations in the activities of the government, with a fine of up to 636,300 tenge ($1,910) or imprisonment for up to 75 days. If committed by the leader of the organization,
the fine may be up to 1.06 million tenge ($3,180) or imprisonment for no more than 90 days. The law does not clearly define “illegal interference.”

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

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

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. Despite some regulatory restrictions, the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (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.

Human rights activists noted numerous violations of labor migrants’ rights, particularly those of unregulated migrants. The UN International Organization for Migration (IOM) noted a growing number of migrants who were banned re-entry to Russia and chose to stay in Kazakhstan. The government does not have a mechanism for integration of migrants, with the exception of ethnic Kazakh repatriates (oralmans). Labor migrants from neighboring Central Asian countries are often low skilled and seek manual labor. They were exposed to dangerous work and often faced abusive practices. The migrants are in vulnerable positions because of their unregulated legal status; the laborers do not know their rights, national labor and migration legislation, local culture, or the language. Among major violations of these migrants’ rights, activists mentioned the lack of
employment contracts, poor working conditions, long working hours, low salaries, nonpayment or delayed payment of salaries, and lack of decent housing. Migrant workers faced the risk of falling victim to human trafficking and forced labor, and the International Labor Organization indicated migrants had very limited or no access to the justice system, social support, or basic health services.

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

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

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

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

Protection of Refugees

The government cooperated with UNHCR and other organizations to provide 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. The government recognized 18 persons as refugees during the first six months of the year.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. UNHCR legally may appeal to the government and intervene on behalf of individuals facing deportation. The law and several implementing regulations and bylaws regulate the granting of asylum and refugee status.

The Refugee Status Determination outlines procedures and access to government services, including the right to be legally registered and issued official documents. The Department of Migration Police in the Ministry of Internal Affairs conducts status determination procedures. Any individual seeking asylum in the country has access to the asylum procedure. According to UNHCR, the staff assigned for asylum processing lacked knowledge and qualifications, and decisions often contradicted existing national legislation and provisions of the 1951 convention or applicable international standards. UNHCR also noted the application of refugee criteria was not consistent throughout the country, and the recognition rate remained low. Reports indicated that regional authorities also discouraged some asylum seekers from applying for asylum.

A legislative framework does not exist to manage the movement of asylum seekers between the country’s borders and authorities in other areas. There are no reception facilities for asylum seekers. The government does not provide accommodation, allowances, or any social benefits to asylum seekers. The law does not provide for differentiated procedures for persons with specific needs, such as separated children and persons with disabilities. Asylum seekers and refugees with specific needs are not entitled to financial or medical assistance. There are no guidelines for handling sensitive cases, including LGBTI cases.

The law envisages refugees as individuals fleeing persecution because of their race, religion, nationality, membership in a particular social group, or political
opinion. It does not envisage providing protection to persons fleeing wars or situation of generalized violence. Authorities appeared to use this scenario in the asylum applications of persons fleeing Syria and Ukraine.

**Employment:** Refugees faced difficulties in gaining employment and social assistance from the government. By law refugees have the right to work, with the exception of engaging in individual entrepreneurship. Refugees faced difficulties in accessing the labor market due to local employers’ lack of awareness of refugee rights.

**Access to Basic Services:** All refugees recognized by the government receive a refugee certificate that allows them to stay in the country legally. The majority of refugees have been residing in the country for many years. Their status as “temporarily residing aliens” hinders their access to the full range of rights stipulated in the 1951 convention and the law. Refugee status lasts for one year and is subject to annual renewal. In view of their temporary status, refugees do not have the right to apply for nationality, including after permanently residing in the country for more than five years. Children of refugees born in the country are also not recognized as citizens and would be stateless or at risk of statelessness if their nationality in the country of origin of their parents may not be conferred. The law also lacks provisions on treatment of asylum seekers and refugees with specific needs. Refugees have no access to social benefits or allowances.

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

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

The government has an agreement with China not to tolerate the presence of ethnic separatists from one country on the territory of the other. UNHCR reported no new cases of Uighur refugees during the year.
Stateless Persons

The constitution and law provide avenues to deal with those considered stateless, and the government generally took seriously its obligation to ease the burden of statelessness within the country. As of June 30, approximately 6,000 persons were officially registered by the government as stateless. The majority of individuals residing in the country with undetermined nationality, with de facto statelessness, or at heightened risk of statelessness are primarily those who have no identity documents, have invalid identity documents from a neighboring CIS country, or are holders of Soviet-era passports. These individuals typically resided in remote areas without obtaining official documentation.

On July 11, the president signed a law that allows the government to deprive individuals convicted for a range of grave terrorism and extremism-related crimes, including for “harming the interest of the state,” of Kazakhstani citizenship.

According to UNHCR the law provides a range of rights to persons recognized by the government as stateless. The legal status of officially registered stateless persons is documented and considered as having permanent residency, which is granted for 10 years in the form of a stateless person certificate. According to the law, after five years of residence in the country, stateless persons are eligible to apply for citizenship. Children born in the country to officially recognized stateless persons who have a permanent place of residence are recognized as nationals. A legal procedure exists for ethnic Kazakhs; those with immediate relatives in the country; and citizens of Ukraine, Belarus, Russia, and Kyrgyzstan, with which the country has agreements. The law gives the government six months to consider an application for citizenship. Some applicants complained that, due to the lengthy bureaucratic process, obtaining citizenship often took years. In summary the law does not provide a simplified naturalization procedure for stateless persons. Existing legislation prevents children of parents without identity documents from obtaining birth certificates, which hindered their access to education, free health care, and freedom of movement.

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

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

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

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

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

Although 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, cabinet, prosecutor general, KNB chief, Supreme Court and lower-level judges, and regional governors. The Mazhilis must confirm the president’s choice of prime minister, and the Senate must confirm the president’s choices of prosecutor general, KNB chief, Supreme Court judges, and National Bank head. Parliament has never failed to confirm a presidential nomination. Modifying or amending the constitution effectively requires the president’s consent. Constitutional amendments exempt President Nazarbayev from the two-term presidential term limit and protect him from prosecution.

Two laws, termed “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:** An early presidential election in April 2015 gave President Nazarbayev 97.5 percent of the vote. According to the *New York Times*, his two opponents, who supported the Nazarbayev government, were seen as playing a perfunctory role as opposition candidates. The OSCE stated that the election process generally was managed effectively, although the OSCE/ODIHR election
observation mission stated voters were not given a choice of political alternatives and noted that both “opposition” candidates had openly praised Nazarbayev’s achievements and that some voters reportedly had been pressured to vote for the incumbent.

On June 28, of the 47 members of the Senate, 16 were selected by members of maslikhats--local representative bodies--acting as electors to represent each oblast-administrative region--and the cities of Astana and Almaty. Four incumbent senators were re-elected, and the majority of the newly elected senators were affiliated with the ruling Nur Otan Party.

As a result of early Mazhilis elections on March 20, 2016, the ruling Nur Otan Party won 84 seats, Ak Zhol won seven seats, and the Communist People’s Party of Kazakhstan won seven seats. ODIHR reported widespread ballot stuffing and inflated vote totals. ODIHR criticized the election for falling short of the country’s democratic commitments. The legal framework imposed substantial restrictions on fundamental civil and political rights. On election day serious procedural errors and irregularities were noted during voting, counting, and tabulation.

Political Parties and Political Participation: 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 seven political parties registered, including Ak Zhol, Birlik, and the People’s Patriotic Party “Auyl” (merged from the Party of Patriots of Kazakhstan and the Kazakhstan Social Democratic Party). One party remained registered although it was defunct, leaving six functioning parties. The parties generally did not oppose President Nazarbayev’s policies.

To register, a political party must hold a founding congress with a minimum attendance of 1,000 delegates, including representatives from two-thirds of the oblasts and the cities of Astana and Almaty. Parties must obtain at least 600 signatures from each oblast and the cities of Astana and Almaty, registration from the Central Election Commission (CEC), and registration from each oblast-level election commission.

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 or minorities in politics.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. The government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity.

Corruption: Corruption was widespread in the executive branch, law enforcement agencies, local government administrations, the education system, and the judiciary, according to opposition leaders and human rights NGOs. The Ministry of Internal Affairs, the Agency on Civil Service Affairs and Combatting Corruption, the KNB, and the Disciplinary State Service Commission are responsible for combating corruption. On July 4, the president signed a law empowering the KNB to investigate corruption crimes committed by officers of the special agencies, anticorruption bureau, and military. According to official statistics, 2,132 corruption-related offenses were registered during the first seven months of the year, and 1,019 cases were submitted to courts.

On January 9, the chairman of the State Single Pension Fund, Ruslan Yerdenayev, was arrested for alleged embezzlement of property. The KNB began investigation based on a complaint from the National Bank regarding illegal transactions on purchase of corporate bonds. The court trial began on November 15 and continued at year’s end.

On June 13, two deputies in the presidential administration, Baglan Mailybayev and Nikolay Galikhin, were convicted of divulging and disseminating state secrets. Mailybayev was sentenced to five years’ imprisonment, confiscation of property, and a lifetime ban on holding government office. Galikhin was sentenced to four years’ probation with a three-year ban on any government service.

The new criminal code toughened criminal liability and punishment for crimes related to corruption. It does not allow probation for corruption crimes. There is also an additional penalty of a lifetime ban on employment in the civil service, as well as mandatory forfeiture of titles, ranks, grades, and state awards. The statute of limitation does not apply to persons charged with corruption.

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

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

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

The Ministry of Foreign Affairs-led Consultative Advisory Body (CAB) for dialogue on democracy, human rights, rule of law, and legislative work continued to operate during the year. The CAB includes government ministries and prominent international and domestic NGOs, as well as international organizations as observers. The NGO community generally was positive regarding the work of the CAB, saying the platform enabled greater communication with the government about issues of concern. The government and NGOs, however, did not agree on recommendations on issues the government considered sensitive, and some human rights concerns were barred from discussion. NGOs reported that government bodies accepted some recommendations, although, according to the NGOs, the accepted recommendations were technical rather than substantive.

KIBHR, Kadyr Kassiyet, the Legal Media Center, and PRI were among the most visibly active human rights NGOs. Some NGOs faced occasional difficulties in acquiring office space and technical facilities. Government leaders participated in-and regularly included--NGOs in roundtables and other public events on democracy and human rights.

The United Nations or Other International Bodies: The government invited UN special rapporteurs to visit the country and meet with NGOs dealing with human rights. The government generally did not prevent other international NGOs and multilateral institutions dealing with human rights from visiting the country and meeting with local human rights groups and government officials. National
security laws prohibit foreigners, international organizations, NGOs, and other nonprofit organizations from engaging in political activities. The government prohibited international organizations from funding unregistered entities.

Government Human Rights Bodies: The Presidential Commission on Human Rights is a consultative and advisory body that includes members of the public appointed by the president. The commission reviews and investigates complaints, issues recommendations, monitors fulfillment of international human rights conventions, and publishes reports on some human rights issues in close cooperation with several international organizations, such as UNHCR, the OSCE, IOM, and UNICEF. The commission does not have legal authority to remedy human rights violations or implement its recommendations in the reports.

A recent constitutional change stipulated that the human rights ombudsman be selected by the Senate, however, the current ombudsman was appointed by the president. He also serves as the chair of the Coordinating Council of the National Preventive Mechanism (NPM) against Torture.

The ombudsman did not have the authority to investigate complaints concerning decisions of the president, heads of government agencies, parliament, cabinet, Constitutional Council, Prosecutor General’s Office, CEC, or courts, although he may investigate complaints against individuals. The ombudsman’s office has the authority to appeal to the president, cabinet, or parliament to resolve citizens’ complaints; cooperate with international human rights organizations and NGOs; meet with government officials concerning human rights violations; visit certain facilities, such as military units and prisons; and publicize in media the results of investigations. The ombudsman’s office also published an annual human rights report. During the year the ombudsman’s office occasionally briefed media and issued reports on complaints it had investigated.

Domestic human rights observers indicated that the ombudsman’s office and the Human Rights Commission were unable to stop human rights abuses or punish perpetrators. The commission and ombudsman avoided addressing underlying structural problems that led to human rights violations, although they advanced human rights by publicizing statistics and individual cases and aided citizens with less controversial social problems and issues involving lower-level elements of the bureaucracy.

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

Rape and Domestic Violence: The law criminalizes rape. The punishment for rape, including spousal rape, ranges from three to 15 years’ imprisonment. There were reports of police and judicial reluctance to act on reports of rape, particularly in spousal rape cases.

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

NGOs estimated that more than 400 women died annually as a result of violence sustained from their spouses. Prosecutors reported a significantly smaller number, stating that 36 women died in 2016 as a result of domestic violence.

Police intervened in family disputes only when they believed the abuse was life threatening. Police often encouraged the two parties to reconcile.

The government opened domestic violence shelters in each region.

According to the Ministry of Internal Affairs, there were 28 crisis centers in 2016. They received 20 percent of their funding from the government and 80 percent through international grants from NGOs.

Other Harmful Traditional Practices: Although prohibited by law, the practice of kidnapping women and girls for forced marriage continued in some remote areas. The law prescribes a prison sentence of eight to 10 years for kidnapping. A person who voluntarily releases an abductee is absolved of criminal responsibility; because of this law, a typical bride kidnapper is not necessarily held criminally responsible. Law enforcement agencies often advised abductees to sort out their situation themselves. According to civil society organizations, making a complaint
to police could be a very bureaucratic process and often subjected families and victims to humiliation.

**Sexual Harassment:** Sexual harassment remained a problem. No law protects women from sexual harassment, and only force or taking advantage of a victim’s physical helplessness carries criminal liability in terms of sexual assault. In no instance was the law used to protect the victim, nor were there reports of any prosecutions.

On July 25, a court in Astana declined to hear Anna Belousova’s lawsuit for moral and material damages against the Finance Ministry for sexual harassment and attempted extortion in her workplace. Belousova appealed unsuccessfully to courts in Kostanay and Astana. She had filed her lawsuit pursuant to the 2015 decision of the UN Committee on the Elimination of Discrimination against Women that Kazakhstan should fulfill its obligations under the UN convention and provide appropriate recompense to Belousova.

**Coercion in Population Control:** There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

**Discrimination:** The constitution and law provide for equal rights and freedoms for men and women. The law prohibits discrimination based on gender. Significant salary gaps between men and women (67 percent) remained a serious problem. According to observers, women in rural areas faced greater discrimination than women in urban areas and suffered from a greater incidence of domestic violence, limited education and employment opportunities, limited access to information, and discrimination in their land and other property rights.

**Children**

In 2016 the president issued a decree to establish the Office of the Commissioner for Child Rights (Children’s Ombudsman) to improve the national system of child rights protection.

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

**Child Abuse:** School violence was a problem, and experts estimated two out of three schoolchildren suffered or witnessed violence. Violence and abuse were particularly serious in boarding schools and orphanages. An estimated 17,000 to 18,000 children suffered from either psychological or physical abuse by their parents.

According to UNICEF, 65 percent of respondents applied psychological pressure and 40 percent used corporal punishment to discipline their children. Family abuse occurred for 62 percent of children.

There were reports of selling newborn babies.

**Early and Forced Marriage:** The legal minimum age for marriage is 18, but it may be reduced to 16 in the case of pregnancy or mutual agreement. According to the NGO League of Women of Creative Initiative, 2,000-3,000 early and forced marriages occurred annually. Many couples first married in mosques and then registered officially when the bride reached the legal age. The government did not take any action to address the issue.

**Sexual Exploitation of Children:** The law does not specify the minimum age for consensual sex, but it provides for eight to 15 years in prison as punishment for individuals who force boys or girls under age 18 to have sexual intercourse. The children’s ombudsman noted that the number of sexual violence incidents reported increased 38 percent compared with the previous year.

The law criminalizes the production and distribution of child pornography and provides administrative penalties to cover the sale of pornographic materials to minors. The country retains administrative penalties for child pornography. Perpetrators convicted of sexual offenses against minors receive a lifetime ban on working with children.

**Displaced Children:** According to the Children’s Rights Protection Committee, more than 5,000 street children were referred to temporary housing centers for delinquent minors, and from there, 4,993 were sent back to families, 432 to orphanages, and 79 to foster and adoptive families in 2015.
Institutionalized Children: Incidents of child abuse in state-run institutions, such as orphanages, boarding schools, and detention facilities for delinquent children, were “not rare,” according to government sources. NGOs alleged one-half the children in orphanages or closed institutions suffered from abuse by teachers or other children. According to the Children’s Rights Protection Committee, the number of orphans who lived in orphanages decreased from 8,000 to 7,000 in 2016. The rest of the 30,000 orphan children were in foster or other home care.


Anti-Semitism

Approximately 30,000 to 40,000 Jews live in the country. Almaty has the largest Jewish community at about 10,000. 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 http://www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, and access to health care, and in the provision of other government services, but significant discrimination existed. The government took steps to remedy some barriers to persons with disabilities, including providing access to information. NGOs stated implementation of the law on disability was lacking.

The law requires companies to set aside 3 percent of their jobs for persons with disabilities, and the government enacted high level enforcement measures to enhance economic opportunities as part of the president’s strategy 2050; nevertheless, there were reports persons with disabilities faced difficulty integrating into society and finding employment. The government identified the two biggest barriers facing persons with disabilities as poor infrastructure and lack of access to education, while persons with disabilities expressed difficulty
accessing public transportation. The government did not legally restrict the right of persons with disabilities to vote and arranged home voting for individuals who could not travel to accessible polling places.

There are no regulations regarding the rights of patients in mental hospitals. Human rights observers believed this led to widespread abuse of patients’ rights. NGOs reported that patients often experienced poor conditions and a complete lack of privacy. Citizens with mental disabilities may be committed to state-run institutions without their consent or judicial review, and the government committed young persons under age 18 with the permission of their families. According to an NPM report, most of the hospitals required extensive maintenance. Other problems observed included shortage of personnel, unsatisfactory sanitary-hygienic conditions, poor food supply, overcrowding, and lack of light and air.

Members of the NPM may visit mental hospitals to monitor conditions and signs of possible torture of patients, but any institutions holding children, including orphanages, were not on the list of institutions NPM members may visit.

National/Racial/Ethnic Minorities

Kazakh is the official state language, although Russian has equal status as the language of interethnic communication. The law requires presidential candidates to be fluent in Kazakh. The law does not require the ability to speak Kazakh for entry into the civil service and prohibits discrimination based on language.

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

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

Although gender reassignment documentation exists, the law requires a transgender person to fulfill psychiatric and physical requirements before being able to receive identity documents that align with the person’s outward gender. Many individuals lived with nonconforming documents for years and reported problems with securing employment, housing, and health care.
According to a 2015 survey, one-half of transgender persons indicated that they experienced physical abuse due to prejudice against transgender individuals.

There were no prosecutions of anti-LGBTI violence. Although there were no government statistics on discrimination or violence based on sexual orientation or gender identity, there were reports of such actions. According to an NGO survey within the LGBTI community, 48 percent of respondents experienced violence or hate because of their sexual orientation, and 56 percent responded they knew someone who suffered from violence. The most frequent forms of abuse were verbal insults, harassment, interference in private life, and physical assaults.

NGOs reported members of the LGBTI community seldom turned to law enforcement agencies to report violence against them because they feared hostility, ridicule, and violence. They were reluctant to use mechanisms such as the national commissioner for human rights to seek remedies for harms inflicted, because they did not trust these mechanisms to safeguard their identities, especially with regard to employment.

**HIV and AIDS Social Stigma**

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

**Section 7. Worker Rights**

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

The law protects workers’ right to unionize but jeopardizes workers’ freedom of association.

A trade union law passed and entered into force in 2014 restricts worker freedom of association by requiring existing independent labor unions to affiliate with larger unions at the industry, sector, or regional level and by erecting significant barriers to the creation of new independent unions. On January 4, a southern regional court cancelled the registration of the Confederation of the Independent Trade Unions of Kazakhstan (CITUK), ordering its liquidation and removal from the national register. The Federation of Trade Unions of the Republic of Kazakhstan (FPRK) is the successor to state-sponsored Soviet-era labor
organizations and the largest national trade union association, with approximately 90 percent of union workers on its rolls. The government exercised considerable influence on organized labor and favored state-affiliated unions over independent ones. Critics charged that the federation was too close to the government to advocate for workers effectively and that the new law helped the federation in its unfair competition against independent labor unions.

The 2014 law requires independent labor unions to affiliate with larger, progovernment ones, violating the country’s obligations under international labor standards on freedom of association. Labor officials argued that requiring smaller and independent unions to affiliate with larger ones would make them more effective and improve their ability to bargain collectively, thus preventing labor disputes and social unrest. As of March, one-third of the country’s working population was unionized.

On January 5, workers at the Oil Construction Company (OCC) initiated a hunger strike in response to the January 4 decision of a Shymkent regional court to abolish CITUK. Later, the workers of two more oil service companies in Mangystau Region joined the strike. With the number of striking workers reportedly growing to 400, the government fined 11 striking workers 46,000 tenge ($137) each. The government sentenced the chair of the OCC Trade Union, Amin Yeleussinov, to two years’ imprisonment for allegedly embezzling approximately 14.2 million tenge ($44,000) in trade union funds.

The law protects the right of workers to bargain collectively. It provides that an individual contract between an employer and an employee sets the employee’s wage and outlines the rights and responsibilities of the employee and the employer. The law protects workers against antiunion discrimination, and a court may order reinstatement of a worker fired for union activity. According to FPRK data, 98 percent of unionized enterprises have collective agreements, which is approximately 34 percent of all working enterprises.

The law protects the right to strike in principle but imposes onerous restrictions that make strikes less effective, impose severe penalties, or deny the right to strike to a variety of workers.

A blanket legal restriction bars certain occupations from striking. Military and other security service members, emergency medical, fire, and rescue crews, as well as those who operate “dangerous” production facilities are forbidden to strike. Under the law such strikes are illegal.
Workers employed in the railway, transport and communications, civil aviation, health-care, and public utilities sectors may strike, but only if they maintain minimum services, do not interrupt nonstop production processes (such as metallurgy), and leave key equipment unaffected.

Numerous legal limitations restrict workers’ right to strike in other industries as well. Generally, workers may not strike unless a labor dispute cannot be resolved through compulsory arbitration procedures. Decisions to strike must be taken in a meeting where at least one-half of an enterprise’s workers are present. A written notice announcing a strike must be submitted to the employer at least five days in advance. Employers may fire striking workers after a court declares a strike illegal. The law enables the government to target labor organizers whose strikes are deemed illegal. The legal changes set stiff penalties for those who participate in strikes deemed illegal, a point that aroused special concern because judges responsible for determining whether a strike is illegal lacked independence. Thus, observers were concerned the provisions were more likely to be used to target labor organizers unfairly.

The labor code limits worker rights to make claims on their employers. For example, its Article 11 requires employers to negotiate any labor-related act with official employee representatives. If there are multiple official representatives, they have three days in which to form a unified body to discuss the proposed act. If the group cannot come to consensus, any one representative may accept the act without the consent of the others. Article 49 includes 27 new reasons an employer may fire a worker.

Disagreements between unions and their employers may be presented to a tripartite commission composed of representatives of the government, labor unions, and employer associations. State-affiliated and independent labor unions participate in tripartite commissions. The tripartite commission is responsible for developing and signing annual agreements governing most aspects of labor relations.

Foreign workers have the right to join unions, but the law prohibits the operation of foreign unions and the financing of unions by foreign entities, such as foreign citizens, governments, and international organizations. Irregular migrants and self-employed individuals resided in the country were not per se exempt from the law. Approximately 2.2 million of the nine million economically active citizens were self-employed in the second quarter of the year.
In response to International Labor Organization (ILO) concern regarding noncompliance with ILO Convention 87, the Ministry of Labor and Social Protection established a working group to discuss possible amendments to labor union legislation.

b. Prohibition of Forced or Compulsory Labor

The labor code establishes labor norms and regulates labor relations and practices. The law prohibits all forms of forced or compulsory labor, except when it is a consequence of a court sentencing or a condition of a state of emergency or martial law.

The penal code provides for criminal punishment of traffickers and those who facilitate forced exploitation and trafficking, including labor recruiters who hire workers through deliberately fraudulent or deceptive offers with the intent to subject them to forced labor, or employers or labor agents who confiscate passports or travel documents to keep workers in a state of involuntary servitude or those who violate legislation on employment of labor including foreign labor. Kidnapping, illegal deprivation of freedom with the purpose of labor and sexual exploitation is punishable by up to 10 years in prison with confiscation of assets, and recruitment of an individual into forced prostitution is also punishable by penalties sufficient to deter violations.

The Ministry of Labor and Social Protection is responsible for conducting checks of employers to reveal labor violations, including foreign labor. The entrepreneur code codifies the right of labor inspectors to conduct announced and unannounced inspections of workplaces to detect violations. In practice the resources of labor inspectors are limited, as there are not a sufficient number of inspectors to deter violations, and they may only conduct inspections of businesses upon receipt of an anonymous complaint. The Ministry of Internal Affairs is responsible for identifying victims of forced labor and sexual exploitation and initiating criminal proceedings. Police conducted interagency operations to find victims of forced labor and trafficking. In 2016 police investigated 147 criminal cases on human trafficking, and courts convicted 46 traffickers, including 40 for sexual exploitation and six for labor exploitation.

Migrant workers were considered most at risk for forced or compulsory labor. According to the IOM *Regional Field Assessment in Central Asia for 2016: Migrant Vulnerabilities and Integration Needs in Central Asia*, there were an estimated 950,000 migrants in the country, with the majority of migrant workers
coming from Uzbekistan, but there were also lesser numbers from Tajikistan and Kyrgyzstan. Migrant workers found employment primarily in agriculture and construction. The Ministry of Labor and Social Protection is responsible for handling issues related to migrant labor. In 2016 the International Federation for Human Rights released a report, *Migrant Workers in Kazakhstan: No Status, No Right*, describing the driving factors, gaps, and challenges of migrant workers.

Also see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

c. Prohibition of Child Labor and Minimum Age for Employment

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

Noncriminal punishments include written warnings, suspensions, terminations, the withdrawal of licenses for specific types of activities, administrative penalties or fines, and administrative arrests (only by court decision and up to 15 days) for violations of legislation, including in relation to minors.

Under the administrative code, employment of a minor without an employment agreement is punishable by up to 425,000 tenge ($1,250) with suspension of the employer’s license. Untimely or incorrectly paid salaries are also punishable by fines of up to 316,200 tenge ($930); nonprovision of vacations, up to 210,800 tenge ($620); illegal excessive work hours, up to 251,600 tenge ($740); and discrimination at the workplace, up to 425,000 tenge ($1,250). In 2016 at least 10 employers were fined for violation of labor legislation, including for offering jobs without signing employment contracts with minors.

Prohibitions against the worst forms of child labor include criminal punishment under the penal code. Violation of minimal age for employment in hazardous work is punishable up to five years in prison with or without a three-year ban on specific types of employment and activities. Engaging minors in pornographic shows or production of materials containing pornographic images of minors is punishable up to 10 years in prison; coercion of minors into prostitution is punishable up to 12 years in prison; kidnapping or illegal deprivation of freedom of a minor for the purpose of exploitation and trafficking in minors is punishable up
to 15 years in prison with a lifetime ban on activities and work with children. In 2016 police investigated 13 cases of the worst forms of child labor.

NGOs reported child labor in domestic servitude, markets, construction sites, and activities such as car washes, cultivation of vegetables, and begging. Media reported some instances of underage minors employed in cotton farming in the southern part of the country and reported that at least 17 underage minors were working as waitresses in cafes and restaurants and as bus conductors in Mangystau oblast. The government worked to raise awareness with trade unions, employers, and NGOs and promote interagency cooperation in eliminating child labor.

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 and training criminal police in investigating the worst forms of child labor.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

d. Discrimination with Respect to Employment and Occupation

Law and regulations prohibit discrimination with respect to employment and occupation based on gender, age, disability, race, ethnicity, language, place of residence, religion, political opinion, affiliation with tribe or class, public associations, or property, social, or official status. The law does not specifically prohibit discrimination with respect to employment and occupation based on disability, sexual orientation, gender identity, age, HIV-positive status, or having other communicable diseases. The government effectively enforced the law and regulations. Discrimination is an administrative offense punishable by a fine up to 453,800 tenge ($1,360). Some cases like illegal termination of labor contracts due to pregnancy, disability, or minority are considered a criminal offense and are punishable by amounts generally sufficient to deter violations.

Discrimination, however, occurred with respect to employment and occupation for persons with disabilities, orphans, and former convicts. Disability NGOs reported that despite government efforts, obtaining employment was difficult for persons with disabilities. The law does not require equal pay for equal work for women and men. NGOs reported no government body assumed responsibility for implementing antidiscrimination legislation and asserted the law’s definition of
gender discrimination does not comply with international standards. More women than men were self-employed or underemployed relative to their education level.

e. Acceptable Conditions of Work

During the year the national monthly minimum wage was equal to the monthly subsistence income level. In 2015, 23 percent of the working population worked in the informal economy.

The law stipulates the normal workweek should not exceed 40 hours and limits heavy manual labor or hazardous work to no more than 36 hours per week. The law limits overtime to two hours per day, or one hour per day for heavy manual labor, and requires overtime to be paid at least at a 50-percent premium. The law prohibits compulsory overtime and overtime for work in hazardous conditions. The law provides that labor agreements may stipulate the length of working time, holidays, and paid annual leave for each worker. The government sets occupational health and safety standards. The law requires employers to suspend work that could endanger the life or health of workers and to 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 suffering adverse employment action.

The new labor code reduced overtime pay for holiday and after-hours work to 1.25 times regular salary, compared with previous rates of two and 1.5 times, respectively. The new code also removed provisions requiring a minimum wage for work in hazardous conditions. Under the previous law, a tripartite commission was charged with negotiating and determining a minimum wage for miners, metallurgists, and others working in hazardous industries.

On February 2, the prosecutor’s office of Mangystau region reported that it ensured delinquent employers paid more than 238 million tenge ($700,000) in wage arrears to workers of 11 companies. The office noted it continued to monitor the situation with six companies in Aktau, which owed approximately 43.86 million tenge ($129,000) to 119 workers.

The Ministry of Healthcare and Social Development enforces the minimum wage, work-hour restrictions, overtime, and occupational safety and health standards. The law codifies the right of government labor inspectors to conduct unannounced inspections of workplaces to detect safety and other violations. Ministry inspectors
conducted random inspections of employers. The ministry had 258 labor inspectors. The Human Rights Commission reported that the number of inspectors was insufficient. Moreover, a new labor code introduced so-called employer’s declarations. Under the new system, labor inspectors may extend a certificate of trust to enterprises that complied with labor legislation requirements. Certified enterprises are exempt from labor inspections for the three-year period. In the opinion of labor rights activists, such a practice may worsen labor conditions and conceal problems. The new labor code introduced a new body for addressing labor safety issues, to be called a production council. Any enterprise or company may form such a council that would be composed of representatives of an employer and employees. Councils are eligible to conduct their own inspections of the employees’ work conditions. As of January 1, there were 12,406 production councils operating in the country. For example, the production council at one enterprise at the leading mining corporation had 68 volunteer labor inspectors with formal training. The FPRK stated the production council reduced the accident rate to one incident that resulted in only a minor injury.

There were reports some employers ignored regulations concerning occupational health and safety. Occupational safety and health conditions in the construction, industrial, and agricultural sectors often were substandard. Workers in factories sometimes lacked quality protective clothing and sometimes worked in conditions of poor visibility and ventilation. Some companies tried to avoid payments to injured workers. Mining and mineral processing firm KazakhMys established a special division, the main goal of which is to investigate every case of industrial injury. A minimal noncompliance with labor safety requirements may result in a company’s refusal to pay workers industrial injury compensations.

At a trade union meeting on August 2, approximately 400 workers of Arcelor Mittal Temirtau (AMT) threatened to initiate strikes unless the company raised their wages by 30 percent. The management suggested making their wages dependent on a graded pay scale system, but workers refused. On August 15, AMT management announced the investment of 51 billion tenge ($150 million) into the construction and modernization of some technical equipment to increase safety and improve working conditions.

In the first half of the year, the government reported 840 individuals injured at their workplaces and 112 workplace deaths. The government attributed many labor-related deaths to antiquated equipment, insufficient detection and prevention of occupational diseases in workers engaged in harmful labor, and disregard for
safety regulations. The most dangerous jobs were in mining, construction, and oil and gas, according to an expert analysis of occupations with the highest fatalities.

Workers in the informal economy constituted approximately 25 percent of the working population. The informal economy is mostly concentrated in the retail trade, transport services, agriculture, real estate, beauty and hair dressing salons, and laundry and dry cleaning businesses. Small entrepreneurs and their employees for the most part worked without health, social, or pension benefits.
Tab 4
HIV Epidemic Control in Central Asia Still Has a Long Way to Go

The five countries that make up Central Asia—Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan—have a total population of more than 60 million and considerable ethnic, cultural, and religious diversity. In 2016, the region celebrated the fiftieth anniversary of the Universal Declaration of Human Rights, which were established in 1948 in the Republic of the former Soviet Union. The current HIV epidemics and national HIV control programmes in Central Asian countries share many similarities, although there are also differences. Given the lack of reliable data on people living with HIV in Central Asian and Uzbekistan, this article will focus on Kazakhstan, Kyrgyzstan and Tajikistan.

By signing the 2016 United Nations Political Declaration on ending AIDS, Kazakhstan, Kyrgyzstan and Tajikistan have declared their commitment to achieve 90-90-90, which implies reaching three key targets. The first is ensuring that people living with HIV live long and healthy lives, which means that all of them would know their HIV status, receive antiretroviral therapy (ART), and have undetectable levels of virology (suppressed viral load). The second goal is to reduce the number of new HIV infections to zero by 2030. To eliminate new infections and scale-up ART in addition to the measures of these three targets—already in place in the region—should be considered for putting an end to the HIV epidemic.

The most recent UNAIDS estimates show that in 2019 there were 26,800 people living with HIV in Kazakhstan, 3,500 in Kyrgyzstan, and 1,800 in Tajikistan. For the last five years, all three countries have made substantial progress in ensuring that more people are treated for HIV and live long and healthy lives. Nonetheless, for the countries reported data as of October 2019, the proportion of estimated PUMH with undetectable virology in the region remains well below the desired target of 75 per cent, needed to attain the UNAIDS 90-90-90 goal (Graph 1, below).

There are many factors that contribute to both the need and feasibility of such progress. In the HIV epidemic, Central Asia is located on the trafficking routes from Afghanistan to Europe, which makes it the relatively accessible and leads to high rates of new infections. The increasing number of people in injection-prone communities ("whites," "chitikas") and other non-injected share groups poses an additional challenge to HIV prevention efforts. By the end of 2018, national HIV programmes and data showed that approximately 40 per cent of all people living with HIV in Kyrgyzstan and Kazakhstan, and 30 per cent in Tajikistan were treated for ART, reported a history of injecting drug use or were currently injecting drug use. Under these circumstances, the proportion of people who tested negative for HIV in the region reached 10 per cent, which is an important metric for programs and efforts that focus on treatment and prevention. The continued treatment of ART leads to the reduction of viral load, which is critical in controlling the spread of the epidemic. The high rates of drug use have also led to high levels of incarceration, which in turn have limited access to comprehensive harm reduction options.

It is widely acknowledged that needle and syringe programmes and opiate agonist therapy (OAT) decreases HIV incidence among PWID. The OAT also supports the adherence of people living with HIV to ART. Several programmes in this region have been successful in the adoption of OAT, which has led to an increase in ART coverage, and the reduction of new infections. The OAT also provides an important tool for the treatment of HIV and other sexually transmitted infections, which is critical in controlling the spread of the epidemic.

Graph 1

73%

% PUMH who achieved viral suppression

80% 78%

% PUMH who know their status

Kazakhstan

Kyrgyzstan

Tajikistan

63%

66%

70%

37%

35%

39%

% PUMH who know their status or who are on ART

71%

60%

84%

80%

% PUMH who know their status or who are on ART

It is often acknowledged that needle and syringe programmes and opiate agonist therapy (OAT) decrease HIV incidence among PWID. The OAT also supports the adherence of people living with HIV to ART. Several programmes in this region have been successful in the adoption of OAT, which has led to an increase in ART coverage, and the reduction of new infections. The OAT also provides an important tool for the treatment of HIV and other sexually transmitted infections, which is critical in controlling the spread of the epidemic.

High mobility: Kazakhstan, Kyrgyzstan, and Tajikistan, which accounts for the majority of newly diagnosed HIV infections in the region. It is also a major destination for migrant workers from Central Asia. In fact, over the past several years, mobility has become an important risk factor with 1.7 per cent of all people newly diagnosed with HIV in Tajikistan in 2018 reporting a recent history of migration and no history of injecting drug use. Programs to ensure cross-country HIV awareness and treatment interventions for migrant populations are limited. In a few fragmentary pilot projects, leaving most people living with HIV without access to ART while in migration.
customs, religious beliefs and gender norms that discourage discussion about sexual behavior, even among adults, hinder successful HIV prevention and targeted testing efforts. The global HIV epidemic has always been linked to men who have sex with men, but HIV among men who have sex with men is in nascent stages. Transgender people and men who have sex with men face strong social pressure and stigma, with frequent reports of violence against community members, which also limits access to services.

**Service delivery and programmatic challenges.** Due to funding restrictions and rigid budgetary regulations related to health service providers, countries in Central Asia have been relatively slow to adopt innovative and comprehensive approaches to HIV prevention and treatment programming. HIV testing needs to be more prevalent, with only limited community-based and self-testing options available. Old testing algorithms are complex, and confirmation of diagnosis can take considerable time. The transition to newer, more effective dual-diagnosis-based treatment regimens has been slow, and many people take multiple regimens that are less tolerated and lower adherence to drug resistance.

**Conclusion:** To achieve an HIV epidemic control, countries in Central Asia will need to address fundamental factors that drive HIV transmission and improve the engagement of people living with HIV and key populations, such as substance users, transgender people and gay people, and other men who have sex with men, in effective prevention and treatment programming. This includes zero-tolerance policies for HIV-related stigma and discrimination and intense advocacy to overcome social and political barriers to key populations, as well as strong evidence-based treatment programs. The transition to newer, more effective dual-diagnosis-based treatment regimens has been slow, and many people take multiple regimens that are less tolerated and lower adherence to drug resistance.

**Notes**

2 December 2019
PRESS RELEASE
UNAIDS and UNDP call on 48* countries and territories to remove all HIV-related travel restrictions

New data show that in 2019 around 40* countries and territories still have restrictions that include mandatory HIV-testing and disclosure as part of requirements for entry, residence, work and/or study permits.

GENEVA, 27 June 2019—UNAIDS and the United Nations Development Programme (UNDP) are urging countries to keep the promises made in the 2016 United Nations Political Declaration on Ending AIDS to remove all forms of HIV-related travel restrictions. Travel restrictions based on real or perceived HIV status are discriminatory, prevent people from accessing HIV services and propagate stigma and discrimination.

Since 2015, four countries have taken steps to lift their HIV-related travel restrictions—Belarus, Lithuania, the Republic of Korea and Uzbekistan.

"Travel restrictions on the basis of HIV status violate human rights and are not effective in achieving the public health goal of preventing HIV transmission," said Dr. Giulia Carletto, UNAIDS Executive Director, and Dr. Yami Mwape, UNDP’s HIV and Health Development Group. "The 2015 Supplement of the Global Commission on HIV and the Law was unequivocal in its findings that these policies are counterproductive to effective AIDS responses.”

Out of the 48 countries and territories that maintain restrictions, at least 30 still impose bans on entry or stay and residence based on HIV status and 19 deport nationals on the grounds of their HIV status. Other countries and territories may require an HIV test on diagnosis as a requirement for a study, work or entry visa.

The majority of countries that retain travel restrictions are in the Middle East and North Africa, but many countries in Asia and the Pacific and eastern Europe and central Asia also impose restrictions.

"HIV-related travel restrictions violate human rights and stimulate stigma and discrimination. They do not decrease the transmission of HIV and are based on morbid notions of people living with HIV and their key populations. It is truly incomprehensible that HIV-related entry and residency restrictions still exist,” said Rico Gutierrez, Executive Director of the Global Network of People Living with HIV.

The Human Rights Council, meeting in Geneva, Switzerland, this week for its 41st session, has consistently drawn attention of the international community to, and raised awareness on, the importance of promoting human rights in the response to HIV, most recently in its 5 July 2015 resolution on human rights in the context of HIV.

"Policies requiring compulsory tests for HIV to impose travel restrictions are not based on scientific evidence, are harmful to the enjoyment of human rights and perpetuate discrimination and stigma,” said Dariusio Potesi, Special Rapporteur on the right to the enjoyment of the highest attainable standard of health. "They are a direct barrier to accessing health care and therefore ineffective in terms of public health. Call on states to abolish discriminatory policies that require mandatory testing and impose travel restrictions based on HIV status."

The new data compiled by UNAIDS include for the first time an analysis of the kinds of travel restrictions imposed by countries and territories and include cases in which people are forced to take a test to renew a residency permit. The data were validated with Member States through their permanent missions to the United Nations.

UNAIDS and UNDP, as the convenor of the Joint Programme's work on human rights, stigma and discrimination, are continuing to work with partners, governments and civil society organizations to change all laws that restrict travel based on HIV status as part of the Global Partnership for Action to Eliminate all Forms of HIV-related Stigma and Discrimination. This is a partnership of United Nations Member States, UNAIDS and UNDP, as the convenor of the Joint Programme's work on human rights, stigma and discrimination, are continuing to work with partners, governments and civil society organizations to change all laws that restrict travel based on HIV status as part of the Global Partnership for Action to Eliminate all Forms of HIV-related Stigma and Discrimination. This is a partnership of United Nations Member States, United Nations entities, civil society and the private and academic sectors for catalyzing efforts in countries to implement and scale up programmes and improve shared responsibility and accountability for ending HIV-related stigma and discrimination.

*The 48 countries and territories that still have some form of HIV-related travel restriction are: Angola, Aruba, Australia, Azerbaijan, Bahamas, Belize, Bosnia and Herzegovina, Brunei Darussalam, Cayman Islands, Cook Islands, Cuba, Dominican Republic, Egypt, Indonesia, Iraq, Israel, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Malaysia, Maldives, Marshall Islands, Mauritius, New Zealand, Oman, Palau, Papua New Guinea, Paraguay, Qatar, Russian Federation, Saint Kitts and Nevis, Samoa, Sao Tome and Principe, Seychelles, Sierra Leone, Singapore, Solomon Islands, Sudan, Syrian Arab Republic, Tonga, Tunisia, Turkmenistan, Turks and Caicos, Tuvalu, Ukraine, United Arab Emirates and Yemen.

UNAIDS

The Joint United Nations Programme on HIV/AIDS, UNAIDS, leads and inspires the world to achieve its shared vision of zero new HIV infections, zero discrimination and zero AIDS-related deaths. UNAIDS unites...
the efforts of 11 UN organizations—UNHCR, UNICEF, UNIFEM, UNDP, UNIFPA, UNODC, UN Women, ILO, UNESCO, WHO and the World Bank—and works closely with global and national partners towards ending the AIDS epidemic by 2030 as part of the Sustainable Development Goals. Learn more at unaids.org and connect with us on Facebook, Twitter, Instagram and YouTube.
Tab 6
HIV and AIDS in Eastern Europe & Central Asia Overview

**KEY POINTS**

- Eastern Europe and Central Asia is the only region in the world where annual rate of HIV infections continues to rise at a concerning rate.
- The HIV epidemic has, for the most part, hit people who inject drugs the hardest. Harm reduction service coverage remains low and where it does exist the services offered are often are not comprehensive.
- Antiretroviral treatment coverage remains well below the global average at 38%. New infections continue to outpace ART enrolment.
- Conservative legislation around same sex relationships, drug use and sex work continues to fuel stigma, obstructing the HIV response in some countries within the region.
- Improved surveillance of the HIV epidemic is needed, often data is unavailable for populations or disputed.

Explore this page to find out more about the people most affected by HIV, testing and counselling, prevention programmes, antiretroviral treatment availability, civil society’s role, HIV and TB coinfection, barriers to the response, funding and the future of HIV in Eastern Europe and Central Asia.

At the end of 2019, an estimated 1.7 million people were living with HIV in Eastern Europe and Central Asia.\(^1\) It is one of two regions in the world where the HIV epidemic continues to grow rapidly, with a 27% increase in annual HIV infections between 2010 and 2018.\(^2\)

In 2019, there were roughly 170,000 new HIV infections. In the same year, there were 35,000 AIDS-related deaths.\(^3\) By the end of 2019, 70% of people living with HIV were aware of their HIV status.\(^4\)
The vast majority of people living with HIV in Eastern Europe and Central Asia live in Russia (70%), where new infections are on the rise, followed by Ukraine. Outside of Russia, the rate of new HIV infections is stable.5

The region’s epidemic is concentrated predominantly among key affected populations – in particular, people who inject drugs (sometimes referred to as PWID) – yet there is low coverage of harm reduction and other HIV prevention programmes in key countries within the region.6 Unprotected sex is causing an increasing number of HIV infections and is now the leading cause of transmission in some countries. The sexual partners of key affected populations, in particular sex workers and people who inject drugs, are at elevated risk of HIV infection and accounted for 33% of new infections across the region in 2014.7 Indeed, the number of new HIV infections acquired through heterosexual sex increased by 150% between 2002 and 2012.8

In addition, growing HIV epidemics among transgender people, gay men and other men who have sex with men are understudied and unrecognised by several national HIV responses.9

Stigma and discrimination towards people living with HIV and key populations remain high. New conservative legislation is placing additional restrictions on same-sex relationships, sex work and drug use, which could further prevent key populations accessing HIV services. Prevention programmes are under threat as international support for HIV responses decreases and domestic funding for HIV prevention fails to keep pace.10

38% of all people living with HIV were accessing ART in Eastern Europe and Central Asia at the end of 2018, one of the lowest coverage rates in the world. The estimated percentage of people living with HIV who achieved viral suppression marginally increased from 26% in 2017 to 29% in 2018.11

The region also faces epidemics of tuberculosis (TB) and hepatitis C virus (HCV) which require an integrated approach to prevention, diagnosis and treatment that is currently lacking.12
In addition, insufficient access to harm reduction services is hampering prevention efforts in many countries, particularly Russia. Armed conflict has also disrupted the provision of testing, prevention and treatment services in the non-government controlled areas of eastern Ukraine.

Despite this challenging landscape, the region is making progress in some areas. For example, in 2016 Armenia and Belarus eliminated mother-to-child transmission of HIV. The average cost of first-line ART has also dropped from almost $2,000 USD per person, per year to less than $200 USD per person, per year, making treatment expansion more achievable.\textsuperscript{13}

**Key affected populations in Eastern Europe and Central Asia**

**People who inject drugs (PWID)**

There are roughly 3.1 million people who inject drugs in Eastern Europe and Central Asia. The region is home to roughly one in four people who inject drugs worldwide.\textsuperscript{14} Russia has the highest number of injecting drug users in the region (1.8 million), about 2.3% of the adult population. Moldova (1%), Belarus (1.1%) and Ukraine (0.8-1.2%) also have significant numbers of this population.\textsuperscript{15}

In Russia, roughly one in four (25.6%) people who inject drugs are living with HIV.\textsuperscript{16} However, there are significant geographical variations. For example, a 2015 survey of people who inject drugs conducted in five Russian cities (Abakan, Barnaul, Volgograd, Naberezhnye Chelny, Perm) found that one in three people who inject drugs were living with HIV.\textsuperscript{17}

HIV prevalence among people who inject drugs is also high in other countries, estimated at 30.8% in Belarus and 22.6% in Ukraine.\textsuperscript{18}

HIV prevalence among women who inject drugs is higher than their male counterparts in Kazakhstan, Uzbekistan, Kyrgyzstan, Belarus, and Ukraine.\textsuperscript{19}

Sex work is closely associated with injecting drug use in the region. For example, in Central Asia, HIV prevalence is estimated to be 20 times higher among female sex workers who inject drugs than those who do not.\textsuperscript{20}
Women who inject drugs also tend to be younger, to engage in more risky sexual behaviours, and to share injecting equipment more often than men who inject drugs. In Eastern Europe, only 0.003% of women who inject drugs have access to opioid substitution therapy (OST) and have poor access to sterile injecting equipment and condoms, as well as limited access to sexual and reproductive health services.21

Sex workers

National HIV prevalence among sex workers varies throughout the region, from less than 1% to 7%,22 although it is higher in certain geographic locations, particularly cities. For example, in Ukraine, HIV prevalence among sex workers in 2015 was estimated to be as high as 18.6% in Cherkasy oblast and as low as 0.7% in Zhytomyr oblast.23 In Moldova, HIV prevalence among female sex workers is estimated at 6.9% in Chisinau, and 24.7% in Balti.24

Sex workers who inject drugs or who experience imprisonment are particularly likely to be living with HIV.25

Despite limited data, it is thought that HIV prevalence is even higher among male sex workers than female sex workers.26

Women

A 2013 review of people who inject drugs in the region found men who inject drugs are more likely to have women who do not inject drugs as their primary sexual partners.27 This, coupled with the fact that male-to-female sexual transmission of HIV is more efficient than female-to-male transmission, is resulting in more women being affected by HIV in the region.28

Women in Eastern Europe and Central Asia are especially at risk of HIV due to multiple factors such as economic vulnerability, violence and difficulties in negotiating for safe sex. In extreme cases, women combine all vulnerabilities associated with drug use, sex work, social marginalisation and stigma and discrimination which prevents them from accessing HIV services.

- Dr Jean-Elie Malkin, former UNAIDS Regional Director for Eastern Europe and Central Asia29

Men who have sex with men (MSM)

In many countries, HIV data relating to men who have sex with men is grossly under-reported, inconclusive or not reported at all. For example, HIV prevalence among men who have sex with men in Kazakhstan has been reported as low as 0.2% and as high as 20%.30 31

According to data reported to UNAIDS in 2018, national HIV prevalence among men who have sex with men ranges from between 0.8% in Armenia to 20.7% in Georgia. However, a number of countries
including Russia have not submitted data on this.\textsuperscript{32}

In Eastern Europe and Central Asia, men who have sex with men accounted for 6% of new infections in 2014.\textsuperscript{33} This is in direct contrast to Western Europe, where 49% of infections are among men who have sex with men (sometimes referred to as MSM).\textsuperscript{34}

**Prisoners**

I was shocked to learn that drug injection in... prison was worse than on the streets of Gatchina, where I lived. The guards helped supply drugs and prison leaders made sure we remained addicted. Many of us paid with our lives. Some guys overdosed, others became HIV-infected like me and tuberculosis finished off the rest of us. Even though all of us were sick, seeing a doctor and getting care was nearly impossible.

- \textit{Sasha, an injecting drug user from Russia}\textsuperscript{35}

Prisoners are at particular risk of HIV infection in Eastern Europe and Central Asia. However, data about this population group is currently scarce.

Harsh criminalisation of drug use has resulted in extraordinarily high levels of incarceration. In 2016 it was estimated that people who inject drugs represent more than a third of prisoners across the region, but the level could be as high as 50-80% in some countries.\textsuperscript{36}

A 2016 study found high levels of incarceration in Eastern Europe and Central Asia facilitates HIV transmission among people who inject drugs. It estimates that between 28% and 55% of all new HIV infections over the next 15 years in the region will be attributable to heightened HIV transmission risk among currently or previously incarcerated people who inject drugs.\textsuperscript{37}

When reported, HIV prevalence in prisons exceeds 10% in Latvia (20.4%), Ukraine (19.4%), Estonia (14.1%), and Kyrgyzstan (11.3%)\textsuperscript{38}

A number of prison surveillance studies have found HIV prevalence to be 22 times, 19 times, and 34 times higher in prisons than in surrounding communities in Ukraine, Azerbaijan and Kyrgyzstan, respectively.\textsuperscript{39}

In 2010, the most recent data available, 55,000 of Russia’s 846,000 inmates were thought to be living with HIV.\textsuperscript{40}

**Young people**

Between 2001 and 2011, HIV prevalence doubled among young people (aged 15–24) in Eastern Europe and Central Asia.\textsuperscript{41} In 2017, it was estimated that 0.2% of 15-24 year olds in the region were living with HIV, with an equal prevalence level between young men and women.\textsuperscript{42}

Exposure to alcohol and drugs, peer pressure, gender-based violence and inequality, intensive labour migration and displacement, human trafficking, marginalisation and involvement in sexual exploitation all conspire to increase the vulnerability of young people in the region, especially girls, to HIV.\textsuperscript{43}

The average age people in the region begin injecting drugs is low and in some countries the age of first use is decreasing further. For example, in Moldova around 55% of people who inject drugs aged
15–24 first started using drugs when they were under 18 and 5% began to inject before they turned 15.44

Many young people across the region become sexually active at an early age. According to country progress reports in eight countries, from 2.0% (in Tajikistan) to 11% (in Kyrgyzstan) of surveyed young people (aged 15–24) had sex before the age of 15.45

**HIV testing and counselling (HTC) in Eastern Europe and Central Asia**

Among the 1.4 million people living with HIV in the region at the end of 2017, 73% were aware of their HIV status, an increase from 69% in 2016.46

However, while the overall number of annual HIV tests continues to increase, the proportion of tests among key populations is shrinking, declining from 4.5% of all HIV tests conducted annually in 2010 to 3.2% in 2016.47

Testing coverage is generally higher among sex workers and men who have sex with men, and lower among people who inject drugs, although it is still below advised levels across all key affected populations.

When reported, in 2017 HIV status awareness among HIV positive sex workers ranges from 31.7% in Moldova to 93.7% in Kazakhstan. Among HIV positive men who have sex with men it ranges from 36% in Armenia to 69.7% in Azerbaijan. Among HIV positive people who inject drugs it ranges from 12.2% in Azerbaijan to 62.2% in Kazakhstan.48

Even where HIV testing is accessible, people are often diagnosed at a late stage of infection. For example, in Russia in 2017, almost 69% of patients who started treatment in 2016 had CD4 cell counts below 350 cells per mm3.49 with late presentation rates as high as 60–80% reported in Georgia, and Albania.50

A 2018 analysis found overall percentages of late presentation and advanced disease in the region to be 40.3% and 25.4%, respectively.51

The main barriers to effective provision of HIV testing services in the region relate to a lack of community-based testing services and health professionals' knowledge and attitudes. Availability of community-based testing services is reported to be a particular barrier for key populations.52

Stigma and discrimination also limit the number of people from key populations accessing testing services. In addition, a number of countries have certain laws such as the criminalisation of HIV exposure and HIV non-disclosure, and the criminalisation of same sex activities and sex work that discourage people from key populations from testing.53

Despite the need, innovative testing approaches such as mobile HIV testing, self-testing kits and partner notification, whereby someone newly diagnosed with HIV is supported to disclose to sexual and injecting partners in order to encourage them to test for HIV, are yet to feature in many national HIV programmes.54

That said, some countries are making progress. For example, in Moldova non government
organisations (NGOs) are conducting saliva-based HIV testing for key populations and sero-discordant couples (when one person is HIV positive and the other is not) alongside harm reduction and other HIV prevention services. Since May 2016, HIV self-testing kits have been available in Moldovan pharmacies for US$25. Assisted partner notification is now widespread in Armenia, Georgia, Tajikistan and Uzbekistan and is being introduced in Kazakhstan. Self-testing kits are available with limited reach in Ukraine and Russia.

HIV prevention programmes in Eastern Europe and Central Asia

The HIV epidemic grew by 30% between 2010 and 2017. A number of political, legal and technical barriers are delaying effective HIV prevention approaches and innovative tools such as pre-exposure prophylaxis (PrEP) from being implemented in the region in many instances.

Condom availability and use

Condom availability differs from country-to-country. For example, in Russia condoms are widely available to buy but the practice of using condoms is controversial and there are no government-backed free distribution schemes. In contrast, the Ukrainian government provided around 56 million condoms as part of its 2014-2017 HIV prevention strategy.

Data on condom use is limited and varies from country-to-country. For instance, 51.6% of women self-reported condom use at last high risk in Ukraine, compared to 82.9% of men in 2017. In comparison, condom use stood at 18.3% among women and 76.4% among men in Armenia and 24.9% among women and 51.4% among men in Albania.

Self-reported condom use among key populations varies widely. It ranges from 15.1% in Azerbaijan to 63.5% in Montenegro among people who inject drugs; from 51.7% in Uzbekistan to 99% in Armenia among sex workers, and from 51.3% in Macedonia to 81.1% in Kyrgyzstan among men who have sex with men.

However, condom use among key populations is often inconsistent and levels of use vary between types of sexual encounter. For example, in 2015 UNAIDS reported that 77% of people who inject drugs in the region used condoms with occasional sexual partners but only 35% used them with regular partners. In Kazakhstan in 2016, 95.4% of sex workers used condoms with clients but only 35% used condoms with stable partners.

HIV education and approach to sexuality education

In most countries, basic information about sexual and reproductive health is provided in secondary school in subjects such as biology. In three countries (Russia, Belarus and Kazakhstan), HIV is briefly discussed together with other infectious diseases and health threats within a mandatory subject called the ‘Basics of Life Safety’.

As a result, data on knowledge of HIV prevention among young people (aged 15-24) is limited. Where reported, it ranges from 13.8% in Tajikistan to 26.7% in Kazakhstan among young women and from 12.5% in Armenia to 25% in Ukraine among young men.

Age-appropriate HIV prevention services are needed for young people. Additional research is also
required to understand the extent of the epidemic among this group.67

Prevention of mother-to-child transmission (PMTCT)

Progress towards the elimination of mother-to-child transmission of HIV continues. Mother-to-child transmission accounted for just 1% of new cases of HIV infection in the region reported in 2017.68

In 2016, Armenia and Belarus were validated by the World Health Organization (WHO) as having eliminated mother-to-child transmission of HIV, and several other countries in the region are on track to apply for validation in 2018.69

Harm reduction

Most countries now provide access to harm reduction services. However, coverage remains low and where services exist, they are not comprehensive.70

This is particularly true in Russia, which is home to the region’s largest HIV epidemic and largest population of people who inject drugs (1.8 million). For example, 30 projects serving some 27,000 people who inject drugs were left without financial support after a grant from the Global Fund to Fight AIDS, Malaria and Tuberculosis (Global Fund) ended in 2014. Although harm reduction programmes were still operating in 17 cities in Russia at the end of 2017, there are limited options to sustain them in the future.71

Several countries—including Belarus, Kazakhstan, Moldova and Ukraine—have maintained and scaled up harm reduction programmes with government resources, leading to reductions in new HIV infections among people who inject drugs.72

Needle–syringe programmes (NSPs) are in place across the region, but they are often at limited scale. In 2016/2017, the annual number of needle and syringes distributed per person ranged from 7 in Albania to 273 in Tajikistan. However, the regional average is 98 needle and syringes per injecting drug user – around half the recommended target for effective harm reduction programmes.73

The coverage of opioid substitution therapy (OST) is extremely low throughout the region. There are fewer than 10 operational sites in many countries, and OST is not available in Russia, Turkmenistan and Uzbekistan.74

Where OST is implemented, coverage was highest in Georgia at 32% and lowest in Kazakhstan at 0.6%.75 However, some effective harm reduction programmes are being implemented. For example, in Ukraine in 2013, community outreach workers increased the uptake of methadone maintenance therapy and ART among people who inject drugs by 36% in just 10 months.76

Harm reduction services are also limited. OST is only available in prisons in five countries (Kyrgyzstan, Moldova, Armenia, Latvia, and Estonia) while NSP in prisons are only available in three (Kyrgyzstan, Moldova, and Armenia).77

Pre-exposure prophylaxis (PrEP)

In 2018, pre-exposure prophylaxis (PrEP), a course of HIV drugs taken by HIV-negative people to reduce their risk of infection, was available in Georgia, Moldova and Ukraine, with Moldova providing it through the public health system. Elsewhere in the region, a number of political, technical and legal
barriers are delaying the implementation of PrEP.78

**Antiretroviral treatment (ART) availability in Eastern Europe and Central Asia**

The majority of countries in the region have officially adopted a test-and-treat policy, and although access to ART has expanded significantly in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Lithuania, Moldova, Russia, Tajikistan, Ukraine and Uzbekistan, new infections continue to outpace treatment enrolment.79

As a result, just 36% of all people living with HIV in the region were accessing ART in 2017, with key populations most likely to miss out.80

Where reported, in 2017 ART coverage ranged from 29% in Ukraine to 65.4% in Tajikistan among HIV positive sex workers; from 46.3% in Ukraine to 78.1% in Tajikistan among HIV positive men who have sex men, and between 37.9% in Ukraine to 85.2% in Moldova among HIV positive people who inject drugs.81

Despite efforts to scale up testing, late diagnosis and late presentation of HIV cases are still major problems, with late presentation rates as high as 60-80% in Bosnia and Herzegovina, Georgia and Albania.82

In 2017, at least 80% of adults in the region were adhering to HIV treatment after 12 months of initiating it, with this proportion rising to 90% or above in Albania, Azerbaijan, Montenegro, Tajikistan and Macedonia. Adherence after 12 months on treatment was 88% and above among children on ART in all countries reporting data. However, this does not include Russia as the country had not reported on this measure to UNAIDS as of 2017.83

Despite these adherence levels, relatively low HIV testing and treatment coverage means that only a quarter (26%) of all people living with HIV in the region were virally suppressed in 2017.84

Antiretroviral resistance testing is not common in the region due to the unavailability of the procedure or high costs. This is preventing early intervention in the case of virological failure, and may lead to increases in drug-resistant HIV. However data on this issue is limited.85

**Civil society’s role in Eastern Europe and Central Asia**

The space for civil society has been under increasing pressure for several years. While there have been some positive developments in the region – for example in Ukraine, grassroots organisations are becoming more active – it is likely that the unrest in Ukraine is central to this deterioration.86

The potential for civil society to contribute fully to the HIV response in many countries remains systematically underused due to weak mechanisms for local governments to support NGOs to deliver HIV services, coupled with a number of legal constraints placed on them.87

Constraints include Russia’s ‘foreign agents’ law, which requires NGOs that receive international funding and engage in vaguely defined political activities, to register as foreign agents.88 Also in Russia, legislation prohibiting dissemination of “propaganda of non-traditional sexual relations among minors” has resulted in the arrest of those working on HIV prevention for men who have sex with men.
These pieces of legislation have served as a model for other countries in the region to bring in restrictive laws. For instance, Azerbaijan has also changed its law to require NGOs and foreign donors to register with the state and gain state approval before any activities can be carried out.90

**HIV and tuberculosis (TB) coinfection in Eastern Europe and Central Asia**

The region continues to face a significant TB epidemic. In terms of absolute numbers, Russia had the largest number of people with TB in 2016 at 94,000, followed by Ukraine (39,000), and Kazakhstan (12,000). In terms of numbers relative to population, Kyrgyzstan had the highest incident rate at 145 per 100,000 population, followed by Moldova (101 per 100,000) and Georgia (92 per 100,000).91

That said, rates of new TB infections are declining in many countries in the region, and at a far higher rate than the global decline of 1.9%. The highest annual rates of decline between 2007 and 2017 were in Kazakhstan (-9.4%) and Tajikistan (-7.4%).92

Around 36% of new and relapse cases come from Russia, even though Russia only accounts for 16% of the Region’s population.93

In 2015, an estimated 16% of people newly diagnosed TB and 48% of people previously treated for TB had multi-drug resistant TB (MDR-TB), accounting for an estimated 74,000 cases. The alarmingly high rates of MDR-TB in most Eastern European and Central Asian countries represent one of the main challenges for TB prevention and care in the region.94
Legal, cultural and socio-economic barriers

Punitive laws against key populations continue to significantly prevent access to HIV testing and treatment across the region.

Although many countries in the region have repealed laws prohibiting same sex sexual activity, it is criminalised in Turkmenistan and Uzbekistan. Even where same sex sexual acts are legal, prevailing social attitudes towards men who have sex with men and people who are LGBTI are often intolerant, leading to widespread discrimination, harassment and abuse.

Sex work is also criminalised in the majority of countries (Albania, Armenia, Bosnia and Herzegovina, Georgia, Montenegro, Russia, Tajikistan, Macedonia, Ukraine and Uzbekistan).

In many countries, the criminalisation of drug use results in police arresting people who access harm reduction services, where they will confiscate drugs and syringes or extract bribes for the possession of syringes or needles. For example, Belarus introduced fines for non-medical drug use in 2015. Those offending for a second time within a year face up to two years in prison.

Stigma and discrimination

The criminalisation of key populations is closely associated with high levels of stigma and discrimination experienced by these groups. In turn, this plays a large role in preventing people living with, and most affected by, HIV from accessing the services they need.

For example, while Ukraine's National Target Program calls for tolerance and less discrimination towards people living with HIV, it does not specifically mention stigma against men who have sex with men or transgender people. As a result, these groups have very limited access to specialised programmes, even in comparison with other key populations such as people who inject drugs and sex workers. In addition, many programmes are typically focussed on medical interventions and do not take into account human rights issues.

Results from the Stigma Index show that at least 20% of people living with HIV in Kyrgyzstan and 18% in Kazakhstan reported being denied health services. Healthcare workers disclosing people’s HIV status without consent is also common in many countries. Discriminatory attitudes and misconceptions about HIV are also common. For example, data suggests at least half of all adults in eight countries in the region would not buy vegetables from a shopkeeper who they knew to be living with HIV.

Despite this, some progress is being made. For example, stigma and discrimination experienced by people living with HIV in medical facilities in Ukraine has dropped from 22% in 2010 to 8% in 2016. In 2016, 27% of countries reporting data to UNAIDS had training programmes for healthcare workers on human rights and non-discrimination legal frameworks as applicable to HIV.

Data issues

Poor surveillance of the HIV epidemic in these countries also hampers prevention efforts. As a result, the epidemic among men who have sex with men and LGBTI people remains largely hidden and the need for HIV services is not recognised.
Structural and resource issues

Administrative barriers relating to harm reduction also exist. In many countries in the region, people must be over 18 years to access harm reduction services. In Russia, Uzbekistan, Ukraine, Belarus, Moldova, Lithuania, and Latvia, official name-based registration of people who inject drugs is required to receive treatment including OST. However, registration often results in restrictions in employment, loss of privileges (for example, driving licence) and targeting by police.

The relatively high prices of antiretroviral medicines (ARVs) in middle-income countries in the region are an additional barrier to treatment scale-up. However, Belarus, Kazakhstan, Moldova, Russia and Ukraine have successfully reduced the cost of first-line treatment regimens in recent years.

In addition, there is a need for regulatory reform to ensure that NGOs are able to provide services through national HIV funding mechanisms. This includes development of social contracting mechanisms, as well as licensing and accreditation of NGOs to make them eligible to apply for and receive government funding.

Funding for HIV in Eastern Europe and Central Asia

A lack of funding remains a significant barrier to the scale-up of HIV prevention programmes to tackle the epidemic effectively in the region.

The Global Fund has been the region’s largest donor for HIV prevention among key populations since 2004. However, as of July 2013, the World Bank reclassified Russia as a high-income country and seven of the other 14 countries as lower-middle income, including Ukraine. As a result, the Global Fund and other international support for HIV programmes in the region is decreasing, yet domestic funding for HIV prevention is not meeting the funding gap.

In particular, the Global Fund’s phased withdrawal from some countries is resulting in a reduction in the number of NGOs delivering services to key populations. This has affected the range and quality of harm reduction services on offer as national governments direct funds towards ART or rehabilitation services.

To some extent, the funding gap left by a decrease in international support is being met. For example, HIV funding in Eastern Europe and Central Asia declined between 2012 and 2016, then rose sharply in 2017 due to increases in domestic investment to reach USD $739 million. This equates to domestic funding covering 81% of all resources for the HIV response.

Belarus was one of the first countries in the region to step up domestic spending on HIV in a substantial way, including for increased harm reduction services. Kazakhstan also has dramatically increased its domestic HIV funding: its domestic share of HIV treatment funding rose from 7% to 100% between 2007 and 2011.

However, in 2017, only 3% of total HIV spending in the region went towards programmes focused on key populations. In addition, the total resources available in 2017 were only 46% of the USD $1.6 billion per year required to reach the region’s UNAIDS’ 2020 Fast-Track Targets.
The future of HIV in Eastern Europe and Central Asia

The number of new HIV infections continues to rise. As a result, the scaling up of ART and other HIV prevention programmes, particularly for key affected populations, is urgent. However, a number of barriers need to be overcome in order for people living with and affected by HIV to access the services they need.

Increasing the number of people living with HIV who are aware they have the virus require innovative strategies that focus on key populations who may feel uncomfortable or scared to access services at public health clinics. Key populations are testing less. Programmes such as the saliva-based HIV testing work being carried out in Moldova are examples of what can be achieved with the right programming and resources.116

Improved HIV surveillance in many countries would identify those at risk and to what extent HIV prevention services need to be scaled up in order to tackle the epidemic effectively.

The scale of prevention programmes for key populations is not keeping pace with the region’s surging epidemics. Expanding comprehensive harm reduction interventions are needed but greater focus must also be given to the sexual transmission of HIV, particularly among the partners of key affected populations.

Drastically scaling up the number of people living with HIV on ART to suppress viral load, in combination with expanding condom use programmes that meet the diverse needs of key affected populations, will be key to reducing the growing number of sexually transmitted HIV infections in the region.

The funding gap created by a reduction in international donor funding remains a concern. Even if longer term funding is secured, many people face a number of legal and social barriers to accessing HIV services, which also need to be addressed.

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Tools and resources:

www.about-hiv.info: This website features a series of factsheets about key HIV topics, currently available in Armenian, English, Georgian, Kazakh, Russian and Ukrainian. The site also provides details of local support organisations.

1. UNAIDS ‘AIDSinfo’ (accessed August 2020)
2. ibid
3. UNAIDS ‘AIDSinfo’ (accessed August 2020)
4. UNAIDS ‘AIDSinfo’ (accessed August 2020)
11. UNAIDS 'AIDSinfo' (accessed August 2019)
18. UNAIDS 'AIDSinfo' (accessed October 2018)
22. UNAIDS 'AIDSinfo' (accessed October 2018)
30. The World Bank, World Health Organisation (WHO), London School of Hygiene & Tropical


34. UNAIDS (2016), Special Analysis for ‘Global AIDS Update’ [pdf]


43. UNESCO (2013) ‘Prevention Education in Eastern Europe and Central Asia: a review of policies and practices’ [pdf]

44. UNESCO (2013) ‘Prevention Education in Eastern Europe and Central Asia: a review of policies and practices’ [pdf]


48. UNAIDS ‘AIDSinfo’ (accessed October 2018)


61. UNAIDS 'AIDSinfo' (accessed October 2018)
64. UNAIDS (2017) Data Book [pdf]
66. UNAIDS ‘AIDSinfo’ (accessed October 2018)
73. UNAIDS ‘AIDSinfo’ (accessed October 2018)
81. UNAIDS ‘AIDSinfo’ (accessed October 2018)
87. Saldanha, VP (3 December, 2016) ‘Correspondence: AIDS in eastern Europe and central Asia: time to face the facts’ The Lancet, Volume 388, ISSUE 10061, p2737-2738
92. ibid
93. ibid[/cn]

The proportion of people with TB co-infected with HIV was highest in Ukraine (21%) and Russia (19%). TB remains the leading cause of death for people living with HIV in the region. The TB mortality rate was highest in Ukraine (9.5 deaths per 100 000), followed by Russia (8.2 deaths per 100 000).ibid


104. UNAIDS (2017) 'Ending AIDS: Progress towards the 90-90-90 targets' [pdf]


111. Harm Reduction International (2016)'Regional Overview: 2.2 Eurasia’ [pdf]


Last full review:
06 August 2018
Next full review:
05 August 2021
Tab 7
Kazakhstan

Number of reported cases: At least 5

Overview

Kazakhstan's Criminal Code has an HIV-specific law. Article 118, which states that putting another person at risk of contracting HIV is punishable by up to 50 days in jail, community service, or a fine. The penalty is increased to up to five years when the risk is transmitted. Disclosure prior to sex leading to informed consent can provoke prosecution.

Exposure or transmission of other sexually transmitted infections is addressed by Article 117 of the Criminal Code.

By the end of 2018, there had been at least five HIV-related criminal cases, many of which were recent. Two highly concerning cases from 2017 involved a man found criminally liable for transmitting HIV to his female partner and, indirectly, to her child as the woman was unaware of his HIV-positive status and had breastfed the child.

In January 2020, media reported a criminal investigation into the case of 11 prisoners who had been found to be HIV-positive. Details are limited and it is unclear why the Karaganda AIDS Centre has speculated the possibility of transmission occurring inside prisons. Instead, experts have pointed to measures occurring while prisoners are on work release. The article notes that investigations considering whether transmission may have been intentional.

There have also been a number of reports concerning the forced testing of sex workers, and tracing of sex workers and clients, which raises concerns of prosecutions should they test positive.

In 2019, several groups of women living with HIV submitted a shadow report to CEDAW, recommending repeal of HIV criminalisation provision in Kazakhstan penal code.

Laws


Year enacted: 2014

Relevant part of the law:

Article 118. Infection with human immunodeficiency virus (HIV)

Part 1 is amended in accordance with the law of the Republic of Kazakhstan dated 12.07.18 No. 134-VF.

1. Knowing another person at risk of contracting HIV - shall be punished by a fine in the amount of up to two hundred monthly calculation indices, or by corrective labour of the same amount, or by engagement in community service for a term of up to one hundred eighty hours, or by arrest for a term of up to fifty days.

2. Infection of another person HIV by a person who knew that he had this disease - the applicable sentence is deprivation of liberty for a term not exceeding five years.

3. An act performed by the second part of this article, committed in respect of two or more persons or in respect of a knowingly minor - the applicable sentence is deprivation of liberty for a term of four to eight years.

Note. A person committed the acts provided for in the first or second part of this article shall be exempted from criminal liability if another person who is at risk of infection or is infected with HIV has been warned in time of the presence of the first of this disease and voluntarily agrees to take actions that could prevent is infection.

View the full law online


Year enacted: 2014

Relevant part of the law:

Article 117. Infection with a venereal disease

1. Infection of another person with a venereal disease by a person who knew that he had this disease - shall be punishable by a fine in the amount of up to one hundred monthly calculation indices, or by corrective labour in the same amount, or by engagement in community service for a term of up to one hundred twenty hours, or by arrest for a term of up to forty-five days.

Part 2 is amended in accordance with the law of the Republic of Kazakhstan dated 12.07.18 No. 134-VF.

2. The same act entailing grave consequences, as well as infection of 2 or more persons or a deliberately minor - shall be punishable by a fine in the amount of up to two thousand monthly calculation indices, or by corrective labour in the same amount, or by engagement in community service for a term of up to one hundred twenty hours, or by restriction of liberty for a term of up to two years, or imprisonment for the same term.
Acknowledgements

IECA: Regional HIV Criminalisation Report

Regional HIV criminalisation report that summarises the state of play regarding HIV criminalisation laws and known prosecutions in the IECA region.

This information was last reviewed in March 2020.
Tab 8
ACCESS TO GOODS AND SERVICES

In November, a hotel in Almaty refused to host an event for human rights defenders, organised by Labrys. The hotel management said they believed that the LGBT movement is illegal in Kazakhstan.

BIAS-MOTIVATED SPEECH AND VIOLENCE

Following the resignation of Nursultan Nazarbayev, Kazakhstan held presidential elections on 9 June. During the campaign period Sadi-Bek Tugel, one of the (unsuccessful) candidates, spoke out against the lesbian and gay community, as well as sex workers, saying that they are against “Kazakh mentality” and “cannot be tolerated”.

On September 25, the Kazakh LGBT Media Kok.team released an interview with a gay man, who was lured on a fake date in July in Nur-Sultan by two men and was tortured, raped and humiliated. After hours of abuse, Ayan managed to escape and call for help. The police detained Ayan’s attackers and investigation is ongoing.

Local human rights groups documented over 40 cases of bias-motivated speech and violence between January-July, including in employment, in education, and at home. Some parents told them they should be taken to Chechnya or that they should have been aborted. Some were repeatedly detained by police and threatened with violence unless they shared names of other LGBT people. Several shared that they were later considering suicide.*

BODILY INTEGRITY

In September, a young queer woman in the capital reported* that she was subjected to conversion therapy by her parents. The family got recommendations for “therapy” from the Ministry of Health.

EDUCATION

On 8 March, the UN Committee on Economic, Social and Cultural Rights (CESCR) recommended Kazakhstan to prevent and combat bullying and violence against LGBT students.

EQUALITY AND NON-DISCRIMINATION

The CESCR recommended Kazakhstan to combat discrimination against LGBT persons and adopt comprehensive anti-discrimination legislation that includes SOGI. Kazakhstan received the same recommendation as part of its third UPR review.

On 14 March, the European Parliament adopted a resolution on human rights in Kazakhstan and called for the elimination of discrimination against LGBT people.

In May, two trans women who were forcibly returned from a vacation in Egypt, were denied any assistance by their travel agency, returned to an airport on the other side of the country, and had to cover the incurred travel costs.

In a landmark decision published on 30 July, the Supreme Court ruled that two lesbian women will receive compensation from a Facebook user, Eldar Mamedov, who posted a video of them kissing without their permission in 2018. The video was viewed over 60,000 times, soliciting homophobic comments. The court ruled that the posting violated the victims’ right to private life. The first instance court had sided with the women. The second instance court had then stated that “[Kazakhstani] society is not ready for open sexual relations between people of the same sex”, that the behavior of the plaintiffs violated “the morale and moral foundations of society”, and that Mamedov “acted as a defender of the morals of the population”. On 22 July, several UN Special Procedures expressed grave concern about this reasoning. The Supreme Court’s ruling is viewed as the first legal victory for LGBTI rights in Kazakhstan.

The Criminal Code sets out criminal liability for rape in Article 120. However, “lesbianism” and “sodomy” carried out with force or threat, are singled out under Articles 121, 122, and 123. On 11 September, the President announced that the government will increase liability for serious crimes, and retain these articles.

FAMILY

The European Parliament resolution (see under Equality and non-discrimination), recommended Kazakhstan to ensure equal rights for same-sex couples.

FREEDOM OF ASSEMBLY

Between February and September, feminist and queer activists repeatedly submitted individual applications to the Almaty City
Hall to hold a women’s march. All their attempts were rejected on the basis that other events were scheduled in the same place. The City Hall then had a meeting with one activist, in which the authorities expressed a concern that LGBT people may attend the demonstration. In the end, the assembly was authorised and the first feminist assembly in the country took place on 28 September, focusing on the topic of domestic violence.

On August 24, activists submitted a request in the capital Nur-Sultan and Almaty to hold the first LGBT rallies, but both were denied.

Activists held a demonstration on 8 December in Almaty. The event was aimed to focus on the visibility of LBTQ women, but the city did not agree to that. The event took place in a small square, the only place where public campaigns are allowed to be held. This case exemplifies well restrictions on the freedom of assembly.

FREEDOM OF ASSOCIATION

The Almaty Justice Department denied registration to the feminist group Feminita three times between 2018 and 2019, on arbitrary grounds. After numerous appeals, the City Court ruled in September that the group does not aim to strengthen moral values and the family, as required of charitable institutions by the law. According to Feminita, the Court referred to “LBTIQ” being explicitly mentioned in the group’s Charter.

In March, the CESCR (see more under Equality and non-discrimination) recommended the authorities to guarantee an enabling environment for NGOs, especially LGBT groups by allowing them to freely register.

On 14 August, nearly 30 activists from Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan founded the first Central Asian Regional LGBT+ platform.

Kazakhstan received UPR recommendations to create an enabling environment for LGBTI rights activists.

FREEDOM OF EXPRESSION

An art exhibition ‘Silly Jokes’ was displayed in Astana and Almaty in the spring, marking the 70th Anniversary of the Universal Declaration of Human Rights. Pro-feminist and LGBT artists were among those featured: Kuanysh Bazargaliyev presented a piece depicting a traditional Kazakh warrior with a rainbow flag.

FREEDOM FROM TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

A trans prisoner, Victoria Berkkhodjaeva reported to her lawyer and Kazakhstan’s National Preventive Mechanism, that an employee in the Zhaugashty women’s prison repeatedly raped her in July. A criminal investigation is ongoing.

HEALTH

In April, Feminita started a research project on the right to health for LBTQ women and trans men, finding experiences of mistreatment in medical settings.

On 7 June, a trans woman with a chronic heart condition called an ambulance for help, but was met with a hostile paramedic who called her a “faggot” and a “freak”, threatened to kill her, and threw her out of the ambulance. The victim was scared to report the case.

SEXUAL AND REPRODUCTIVE RIGHTS

Feminita’s healthcare project (see under Health) found that LBTQ women have low level of awareness about HIV and STIs and also very little access to friendly HIV centres in cities, which only cater to sex workers and men who have sex with men. Some LBTQ women are forced to pretend they are sex workers to access these centres.

*Some of the information about Kazakhstan was shared with ILGA-Europe by activists who for safety reasons need to stay anonymous. These accounts were not publicly shared online or otherwise.*
Tab 9
HIV & criminal law

HIV criminalisation cases recorded in 72 countries, including 49 in the last four years

Disproportionate number of cases in Belarus, the Czech Republic and New Zealand

Roger Pebody | 3 June 2019

HIV criminalisation continues: a global review has found that HIV-related arrests, investigations, prosecutions and convictions have occurred in at least 72 countries, with recent cases occurring in 49 countries, including 16 in which the law appeared to be applied for the first time.

The HIV Justice Network’s review concerns cases in which either the criminal or similar law is applied to people living with HIV based on HIV-positive status, either via HIV-specific criminal statutes (29 countries), general criminal or similar laws (29 countries), or both (6 countries).

Such laws typically criminalise non-disclosure of HIV status to a sexual partner, potential or perceived exposure to HIV, or transmission of HIV.

HIV criminalisation is a pervasive illustration of how state-sponsored stigma and discrimination works against a marginalised group of people with immutable characteristics,” says HIV Justice Network. “As well as being a human rights risk, HIV criminalisation is a barrier to universal access to HIV prevention, testing, treatment and care.1

Glossary
criminalisation
disclosure
stigma
withdrawal

Between October 2015 and December 2018, at least 913 people living with HIV were arrested, prosecuted, convicted or acquitted in 30 countries. The largest numbers of cases were reported in the Russian Federation (at least 314 cases), Belarus (216), United States (185), Ukraine (92), Canada (77), Zimbabwe (69), Czech Republic (65), United Kingdom (63), France (62) and Taiwan (61). To estimate where the criminal law appears to be disproportionately applied, the researchers analysed the number of known recent cases according to the estimated number of diagnosed people living with HIV in a country. They identified 75 criminalisation hotspots: counrtries in which the number of cases was equal to or greater than 0.01 in 10,000 of diagnosed individuals:

- Belarus (39 in 10,000)
- Czech Republic (65 in 10,000)
- New Zealand (6 in 10,000)
- Canada (4 in 10,000)
- Sweden (5 in 10,000)
- Russian Federation (8 in 10,000)
- Taiwan (3 in 10,000)
- Ukraine (2 in 10,000)
- Australia (2 in 10,000)
- Switzerland (2 in 10,000)
- England and Wales (1 in 10,000)
- Kazakhstan (1 in 10,000)
- United States (3 in 10,000)
- France (5 in 10,000)
- Italy (1 in 10,000)

Their analysis suggests that recent HIV criminalisation cases do not reflect the demographics of local epidemics, with the likelihood of prosecution exacerbated by discrimination against marginalised populations on the basis of drug use, ethnicity, gender, gender identity, immigration status, sex work and/or sexuality. Cases in the United States also appear to disproportionately impact people already on the periphery of the criminal justice system, such as prisoners, and people living in poverty, including homeless people, with a high number of cases related to HIV exposure via injections or spitting during arrest or whilst incarcerated.

Recent reports of increased numbers of cases in sub-Saharan Africa and in Eastern Europe and Central Asia illustrate what advocates have long feared that women are more likely to be prosecuted (and less likely to have adequate legal representation), since they are often the first in a relationship to know their status as a result of routine HIV testing during pregnancy, and are less likely to be able to safely disclose their HIV-positive status to their partner due to gendered power inequalities. Women with HIV also face the possibility of being prosecuted for passing HIV on to their child during pregnancy, birth or breastfeeding.

In addition, migrants from high-HIV prevalence regions (such as sub-Saharan Africa and eastern Europe) appear to be disproportionately prosecuted in Canada, northern and western Europe and Australasia, and usually have limited access to adequate legal representation. Non-citizens are also likely to be deported to their country of origin after serving their sentence even if they have family ties in their adopted country.

HIV-specific laws continue to exist in at least 75 countries, including many countries in sub-Saharan Africa (20 countries) and eastern Europe and Central Asia (9).

Advocacy success

Nonetheless, during the period covered by the report, promising developments in case law, law reform and policy have occurred, most often as a direct result of advocacy from individuals and organisations working to end the inappropriate use of the criminal law to regulate and punish people living with HIV.

HIV-specific laws have been repealed in Victoria, Australia and in the Democratic Republic of Congo. The latter decision followed eighteen years of effective civil society lobbying and nurturing of supportive parliamentarians.

Laws have been modernised in seven jurisdictions. For example, Botswana has previously made exposure of HIV a crime, regardless of disclosure of HIV status, consent or use or whether the sexual partner wanted the prosecution to take place. As a result of advocacy, by the community organisation People PLUS, the government announced in December 2018 that a person with HIV will no longer be held criminally liable for HIV exposure or transmission if they disclose their HIV-positive status and their partner consents.

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The US state of Colorado used to hand out longer sentences to individuals convicted of sex work, solicitation of a sex act or rape, if that person had been diagnosed with HIV at the time of the offence. Following several years of researching, consulting, organizing, lobbying and negotiating by a coalition of campaigners, these laws were changed in 2019. The sex work provisions were removed, while the tougher sentences for HIV-positive individuals convicted of rape were somewhat lessened.

Other jurisdictionsmoderating their laws in recent years are Switzerland, Norway, California, Michigan and North Carolina.

Several proposed laws have been withdrawn. In Malawi, a proposed law was initially welcomed by feminists, but perceptions of the law’s impact changed after consultations between legal activists and grassroots networks of women living with HIV examining the legislation in detail. As it became clear to local women how the vague provisions on “willful transmission” could play out in their lives, they decided to take up advocacy against it and the parliament withdrew that part of the law.

International activity facilitated the development of a Mexican network of 44 civil society organizations (La Red Mexicana), which has had several successes, including the withdrawal of proposed laws in three Mexican states and the country’s supreme court declaring a law in Veracruz to be unconstitutional. A proposed law has also been withdrawn in Brazil and a Kenyan statute ruled to be unconstitutional.

In addition, precedent-setting cases in Finland, Germany, Greece, Italy, Sweden and Morocco have the potential to limit the overly broad application of the law through the recognition of up-to-date HIV-related science on the real risks of transmission.

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NAM is a charity based in the UK. We work to support people living with HIV internationally and here in the UK. We believe everyone, everywhere, should have access to information and support. We are independent, non-commercial and committed to speaking out for all those affected by HIV, and for greater access to HIV treatment.

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Women Help Women Overcome HIV Stigma in Kazakhstan, with ICAP’s Support

Mar 5, 2019 | Stories from the Field

In Kazakhstan, women hold two-thirds of all medical positions, with a similar proportion in neighboring Tajikistan and the Kyrgyz Republic. In the ICAP-supported East-Kazakhstan Oblast AIDS Center, however, women make up a remarkable 90 percent of the medical specialist staff. One of these health practitioners is Dinara Salimbayeva, one of the East-Kazakhstan AIDS Center’s home visiting nurses. Having served more than 25 years as a nurse, 12 of those with the Center, she developed the desire to help others at a very young age.

“I was the first child in my family, and my parents were young students, so I was raised by my grandparents,” she recalled. “My grandparents were often ill, and I dreamed that when I grew up, I would become a doctor to treat them. I wanted to help people with severe diseases, to give them support and inspire hope for a cure.”

Salimbayeva graduated from Ust-Kamenogorsk Medical College, where she studied human anatomy and physiology and learned to provide urgent medical care as well as psychological counseling and patient support. In her work as a nurse, the combination of technical expertise and interpersonal skills is essential.

“You need to have a desire and a purpose to do this job,” Salimbayeva said. “In my work, I like to see when patients recover, and their quality of life improves. Building trusting relationships is very important to the healing process and the outcome.”
Said by her, Salimbayeva’s work is part of the SUPPORT4HEALTH model, which aims to improve retention in care and adherence to antiretroviral therapy (ART) for people living with HIV, by bringing skilled nursing care to individuals at home, rather than requiring patients to risk identification and stigma by visiting the health facility. The personal contact with a community health care worker also enables a trusting relationship and specific support for patients with additional health needs, such as those who inject drugs, who have tuberculosis, or who are pregnant or breastfeeding.

SUPPORT4HEALTH is active in all the countries ICAP supports in Central Asia—Kazakhstan, Tajikistan, and the Kyrgyz Republic—as part of the multi-country Global Technical Assistance program funded by the U.S. President’s Emergency Plan for AIDS Relief (PEPFAR) through the Centers for Disease Control and Prevention (CDC). SUPPORT4HEALTH was implemented in East Kazakhstan and eight other PEPFAR priority sub-national units since 2010, and ICAP rolled out a redesigned version in East Kazakhstan in January 2016.

“The diseases that are the focus of ICAP’s work in Central Asia—mainly HIV, tuberculosis, and injecting drug use—are all closely connected with one another and have deep social roots,” said Yelena Kudusova, the regional HIV care and treatment advisor for ICAP in Central Asia.

“Additionally, for women, sexual and reproductive health, including pregnancy, childbirth, sexually transmitted infections (including HIV), and gender-based violence, are significant health challenges.”

Both Kudusova and Salimbayeva listed stigma and discrimination as the biggest barriers to seeking care and support.

“Women test for HIV at higher rates than men, and have both a higher level of adherence to HIV treatment and a quicker time to viral suppression, regardless of whether they were infected with HIV through injecting drug use or sexual transmission,” Kudusova said. “But still we see that women make up no more than 10 percent of patients registered with drug treatment centers for injecting drug use, and no more than 40–65 percent of those enrolled in HIV care at ICAP sites across all three countries. Stigma and discrimination in medical facilities and in everyday life make HIV-positive women hide their status and refuse treatment and social support, so we are working to counteract this as much as possible in order to reduce these gaps.”

Salimbayeva cited two women, Elena Rodikina and Lyubov Varentseva of the Union of People Living with HIV in Kazakhstan, as champions against stigma and discrimination who courageously campaign to show all of Kazakhstan that HIV is not a death sentence, and that a person living with HIV can live as long and happily as someone not affected by HIV.

She also gave the example of one patient, Olga, who was able to turn her life around through involvement with SUPPORT4HEALTH. Olga was an active injection drug user who was diagnosed HIV positive during HIV rapid testing at a needle exchange service several years ago. She was prescribed antiretroviral therapy (ART) but continued to use drugs, and had difficulty adhering to her ART regimen.

“Sometimes it takes a personal connection to help someone get to where they feel confident in their own ability to care for their health,” Salimbayeva said. “One of my home visiting nurse colleagues and a physician worked with her for a long time, counseling and supporting her, talking to her about what it means to have and treat HIV, encouraging her to join a methadone maintenance substitution therapy program, and connecting her with a peer counselor.”

Over several months, Olga dramatically improved her adherence to ART and reached viral suppression, and also graduated from the
methadone program with the strategies and support to remain free from drugs and alcohol. Feeling healthy, she met her life partner, got married, graduated college with qualifications in economics, and now works as a human resource manager for one of the companies in East Kazakhstan. Now, she is pregnant and awaiting her firstborn, with no complications due to HIV or her history of drug use.

“Oljava is very grateful to the nurses, doctors, and her peer counselor who supported her,” Salimbayeva said. “I think her story shows that continuous care and support, even if it takes many people over a long time, can help people living with HIV to successfully adhere to their treatment and reach viral suppression, and live a successful life with good health!”

March 8, International Women’s Day, is an occasion both to honor the women whose courageous work has made the world a better place, and to shine a light on the challenges many women still face. ICAP is grateful for the strength and dedication of Oljava, Dinara, and Yelena, for helping to break down stigma and discrimination against HIV and addiction in Central Asia, and enabling a brighter future.

A global health leader since 2008, ICAP was founded at Columbia University with one overarching goal: to improve the health of families and communities. Together with its partners—ministries of health, large multilaterals, health care providers, and patients—ICAP strives for a world where health is available to all. To date, ICAP has addressed major public health challenges and the needs of local health systems through 6,000 sites across 30 countries. For more information about ICAP, visit: icapcolumbia.edu.

Header photo: (L-R) Dinara Salimbayeva, Aneka Galibova, and Alina Rakhimov at the East-Kazakhstan AIDS Center. Photos 2 and 3: Dinara Salimbayeva and colleagues at the East-Kazakhstan AIDS Center. Photos 4 and 5: Home visiting nurse Oljava Salimbayeva counsels a patient at home.

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Tab 11
Submission by Human Rights Watch to the Committee on Economic, Social and Cultural Rights on Kazakhstan

65th session, 2019

This submission is for consideration during the Committee on Economic, Social and Cultural Rights’ review Kazakhstan. It focuses on the crackdown on the independent trade union movement and attacks on workers’ rights; discrimination based on sexual orientation and gender identity; the protection of students, teachers, and schools in situations of armed conflict; and inclusive education in Kazakhstan.

The right of everyone to form and join trade unions (Article 8)

The government of Kazakhstan fails to guarantee workers’ rights or to fully protect their interests in the workplace. Workers must overcome significant obstacles established in law and in practice to organize in Kazakhstan. Legislative changes in recent years have restricted the rights of workers to freely form unions and bargain collectively and have introduced criminal sanctions for leading or participating in strikes deemed illegal under Kazakh law. Outspoken trade union leaders and worker activists have faced harassment and legal prosecution for their labor activism.

Legal Framework

Kazakhstan’s Trade Union Law, adopted in June 2014, imposes significant restrictions on workers’ right to freedom of association and to organize. The law introduced a burdensome two-step registration process that has been used to strip key independent trade unions in Kazakhstan of their legal status. It also obliges trade unions to affiliate with higher-tier unions, a provision that seriously undermines workers’ right to freely determine their unions’ structures.¹

To register as a trade union, the Trade Union Law requires a group of at least ten workers to hold a congress, adopt a charter, and form a trade union body, which must then register with the Ministry of Justice. Within six months of registration, the union must prove its membership

base and its affiliation to a higher-tier union, such as an industrial trade union or a trade union confederation, or it remains in legal limbo and the Ministry of Justice can strip it of its legal status.²

Kazakh law bans outright certain categories of workers from forming unions, such as judges, firefighters and prison staff. Kazakh law also prohibits trade unions in Kazakhstan from receiving any financial support from their international trade union affiliates. Kazakhstan’s constitution and legislation on public associations also prohibit foreign unions from operating in the country.³

Although the government pledged to introduce amendments to the Trade Union law at the International Labor Conference in June 2017, and reiterated this commitment in a high-level tripartite meeting in Astana in May 2018, at which the Kazakh government adopted a road map to address a number of the International Labour Organization’s concerns regarding freedom of association, as of this writing, proposed amendments have not been submitted to parliament for consideration.

Forced closure of trade unions

In a serious blow to the independent trade union movement in Kazakhstan, a court on January 4, 2017 held that the Confederation of Independent Trade Unions of Kazakhstan (KNPRK), the country’s largest independent trade union confederation, failed to comply with the Trade Union Law’s registration requirements and must shut down. The court did not allow the union to fairly present its case or defend itself. For example, it refused to postpone the hearing to allow the union sufficient time to prepare, and denied all of the union’s motions, including requests to question witnesses.

The government also closed three affiliated unions – for domestic workers, health care employees, and metalworkers. In August 2017, the Supreme Court refused to consider the Trade Union of Social and Domestic Workers’ appeal against its forced closure.

On April 11, 2018, the Mangistau regional economic court ruled to close the local-level independent Oil Construction Company trade union of oil workers, following a complaint filed by the Mangistau Regional Administration Office, which claimed the union had not complied with registration requirements by affiliating with an industrial-tier trade union.

In 2018, the Ministry of Justice three times refused to register the Confederation of Independent Trade Unions of Kazakhstan under a new name.

Retaliation Against Trade Union Activists

² Ibid.
³ Ibid.
In a November 2016 report, Human Rights Watch documented how Kazakh authorities acted in apparent retaliation against trade union leaders, labor activists, and workers, including by threatening them with criminal charges or placing activists under government surveillance. Since the publication of the report, authorities have criminally prosecuted and courts have jailed trade union leaders for their labor activism.

The closure of KNPRK prompted hundreds of workers to stage a peaceful protest in January 2017. On January 19, an Aktau court found the protest illegal and the next day, police arrested Amin Eleusinov and Nurbek Kushakbaev, trade union leaders who participated in the protest. Eleusinov was prosecuted on politically motivated charges of “embezzlement” and was sentenced to two years in prison in May 2017. Kushakbaev was prosecuted separately on the wholly unjustified charge of “calling on workers to continue an illegal strike” and on April 7, 2017, a separate Astana court sentenced him to two-and-a-half years in prison. Eleusinov and Kushakbaev were granted parole in May 2018 but are prohibited from resuming any trade union activism for five and two years, respectively.

Larisa Kharkova, leader of the now-banned Confederation of Independent Trade Unions, was prosecuted on politically motivated criminal charges of large-scale embezzlement and fraud, following an investigation and trial marred by procedural violations. On July 25, 2017, a court convicted Larisa Kharkova of “abuse of office” and sentenced her to 400 hours of community service. It also placed restrictions on her freedom of movement for four years and banned her from holding a leadership position in any nongovernmental organization, such as a trade union, for five years. In January 2018, Kharkova successfully contested the compulsory community service component of her sentence.

In September 2018, Kazakh authorities in Shymkent opened a spurious criminal case against Erlan Baltabay, head of the local trade union Decent Work for petrochemical industry workers. The investigation stems from a complaint filed by a trade union member, who accused Baltabay of stealing approximately US$28,000 in trade union membership dues. Baltabay denies the charges and told Human Rights Watch that the funds remain in his possession, and he can account for the funds before his union’s members. The authorities have repeatedly summoned Baltabay for questioning, searched his home and office, and seized trade union documents and its stamp, which has effectively paralyzed his union from carrying out any formal activities. The investigation is ongoing.

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4 Ibid.
In November 2018, unidentified assailants attacked Dmitry Senyavskii, leader of the Karaganda region industrial-tier fuel and energy trade union. His injuries prevented him from meeting with a visiting international trade union delegation in the capital, Astana, three days later. Following the attack, Kazakh authorities initiated an investigation under the offense of “hooliganism.” As of this writing, the investigation is ongoing.

Restrictions on the Right to Strike

The right to strike is guaranteed in Kazakhstan’s constitution and Labor Code, but all “railway transport and civil aviation workers, medical workers, and service providers (including workers in public transport, water supply, electricity, heat, and communications)” are prohibited from going on strike, as are workers at “hazardous production facilities,” and “in other cases envisaged by the laws of the Republic of Kazakhstan.”

In 2014, Kazakhstan introduced to the Criminal Code a new offense of “actions provoking continued participation in a strike declared illegal by the court,” which carries a maximum prison sentence of three years. While the right to strike is not absolute in international law, the International Labour Organization has determined that criminal sanctions for those who participate in peaceful strikes is an excessive punishment.

Human Rights Watch recommends to the Committee that it call upon the government of Kazakhstan to:

- Respect the rights of workers to associate, organize, and form unions, and to peaceful assembly with others in accordance with international human and labor rights law.
- Foster an environment that protects, not punishes, labor rights activists for defending workers’ rights in Kazakhstan.
- Comply fully with the conclusions adopted in 2015, 2016, and 2017 by the ILO Committee on the Application of Standards;
- Have the court-ordered closure of the Confederation of Independent Trade Unions of Kazakhstan set aside and allow the KNPRK to operate without interference;
- End the harassment of independent trade union activists, including by lifting restrictions on trade union activism of Larisa Kharkova, Amin Eleusinov, and Nurbek Kushakbaev;
- Revise the 2014 Trade Union Law to allow trade unions to register and function in line with international protections and standards;
- Revise the 2015 Labor Code by lifting broad restrictions and prohibitions on the right to strike and clearly define provisions for collective bargaining;

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• Repeal Criminal Code article 402 criminalizing “calling on workers to participate in a strike that has been found illegal by a court,” as incompatible with freedom of association, the right to organize, and the right to strike.

**Discrimination based on Sexual Orientation and Gender Identity (Articles 2, 6, 7, and 12)**

Harassment, discrimination, and the threat of violence affect the everyday lives of Lesbian Gay Bisexual and Transgender (LGBT) people in Kazakhstan. LGBT people are faced with hostility behind the closed doors of private homes, and in public places, such as in parks and outside nightclubs. State institutions fail to provide consistent care and protection. In the rare cases when victims report abuses or seek social services, official responses are inadequate. In many cases, the abuses suffered by LGBT people are shrouded in shame due to widespread antipathy toward sexual and gender diversity.

*Discrimination in Work*

Transgender people in Kazakhstan face intense social prejudice and discrimination, including discrimination in employment. In July 2015, Human Rights Watch reported that for some transgender people, the difficulty in obtaining legal recognition of their gender identity can prevent them from getting jobs. Producing official documents is a requirement for obtaining work in Kazakhstan, and transgender individuals face added scrutiny and possible accusations of fraud if they do not conform to the gender set forth on their official documents.

*Standard of Physical and Mental Health for LGBT People*

Access to physical and mental health services can be an issue for LGBT people in Kazakhstan. Due to abusive experiences in medical settings and widespread antipathy toward sexual and gender diversity, LGBT individuals in Kazakhstan often conceal their identities from health care providers.

A 2009 Soros Foundation survey found that 66 percent of LGBT people conceal their identity from health care providers, while a 2012 survey of 400 men who have sex with men (MSM) in Almaty, conducted by researchers at Johns Hopkins University, recorded that barely 3 percent of respondents had told their health care providers of their same-sex intimate relations. A 2009 evaluation of the Global Fund’s HIV project in Kazakhstan noted that “MSM remain one

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9 Ibid.
of the hardest to reach groups with the minimal level of coverage by preventive activities.”

The report attributed the inadequate prevention interventions to “Negative and sometimes hostile attitude of the society, including medical personnel and the law enforcement agencies towards MSM, as well as self stigmatization of this group.”

Among the most fundamental barriers to realizing the human rights of transgender people, including protecting them from violence and discrimination, are obstacles to having their gender identity legally recognized. When transgender people carry documents that list a sex or gender that does not match their identity and appearance, officials subject them to humiliating and sometimes abusive scrutiny. In a 2015 survey of 41 transgender people in Kazakhstan by a local NGO, when asked what needed to happen to help them become more fully integrated in society, nearly two-thirds of respondents answered that they needed to change their legal gender on documents, while only two respondents had actually been able to do so.

In 2009, a new health code introduced the “the right to sex change,” specifying sex reassignment surgery as a possibility. The government then considered the specific meaning and implementation of this right and drafted guidelines. The guidelines, passed in 2011, specifically added increasingly coercive and humiliating procedures to the previous requirements in order for the commission to confirm a diagnosis. The new procedure reads: “Gender reassignment medical measures are realized upon the results of the Commission’s decision, and include two stages: Hormonal therapy; Surgical correction.”

Human Rights Watch recommends to the Committee that it call upon the government of Kazakhstan to:

- Publicly acknowledge the scope and gravity of the problem of violence and discrimination against lesbian, gay, bisexual, and transgender (LGBT) people in

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13 Ibid.
17 Ibid.
Kazakhstan, and work with human rights organizations and LGBT activists to improve protections.

- Amend Kazakhstan’s gender recognition procedure to allow transgender people to change their legal gender on all documents through a process of self-declaration that is free of medical procedures or coercion.
- Commit the Ministry of Health to engage effectively with men who have sex with men (MSM) and transgender populations on HIV education, prevention, counseling, testing, and treatment activities, including by making strong public statements against discrimination.
- Put in place a quick, transparent and accessible procedure of legal gender recognition, without any requirements of medical interventions, to facilitate the enjoyment of the Covenant rights by transgender persons.

Education in times of Armed Conflict (Article 13)

Kazakhstan has been supportive of children’s education during times of armed conflict and has promoted the protection of students, teachers, and schools.

In July 2015, Kazakhstan became the 48th country to endorse the Safe Schools Declaration18 and thereby committed to using the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict19 as a practical tool to guide their conduct during relevant security operations.

During its time as a member of the UN Security Council, in the October 31, 2017 open debate on children and armed conflict, the Kazakh permanent representative to the UN called on the Security Council member states “to universally ratify and implement the relevant international treaties and to enact related national legislation, as well as to endorse international tools designed to promote the protection of children in armed conflict … We have not only endorsed the Paris Principles and Commitments, as well as the Safe Schools Declaration, we are also working actively to implement them effectively.”20

In 2018, Kazakhstan co-authored Security Council resolution 2427 on children in armed conflict, which “expresses deep concern at the military use of schools in contravention of

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20 Ibid.
applicable international law, recognizing that such use may render schools legitimate targets of attack, thus endangering children’s and teachers’ safety as well as children’s education.”21

Human Rights Watch recommends that the Committee:

• Acknowledge Kazakhstan for its endorsement of the Safe Schools Declaration and the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict;
• Encourage Kazakhstan to advocate for neighboring states to endorse the Safe Schools Declaration and implement its commitments to protecting students, teachers, and schools during armed conflict;
• Encourage Kazakhstan to continue to develop and share examples of its implementation of the Declaration’s commitments with this Committee and with other countries that have endorsed the Safe Schools Declaration—especially during the 2019 Third International Safe Schools Conference to be held in Spain in May—as examples of good practice in protecting students, teachers, and schools during armed conflict.

Inclusive Education for Children with Disabilities (Articles 10, 13)

Despite the Kazakh government’s stated commitments to ensuring inclusive education in mainstream schools for children with disabilities by 2019, progress towards full and genuine inclusive education is slow. Some children with disabilities attend mainstream schools, but the vast majority of children with disabilities are enrolled in special schools for children with disabilities, which can be located far from their families and communities; educated at home, isolated from their peers with limited class hours; or segregated in special classrooms in mainstream schools. Children with disabilities living in psychiatric-neurological institutions receive very little or no education.

Kazakhstan’s Law on Education guarantees the right of all children to attend free primary and early secondary school in their neighborhoods and establishes free compulsory education through upper secondary school.22

Psychological-Medical-Pedagogical Consultations (PMPK) currently are a key barrier to children with disabilities studying in mainstream schools. PMPK commissions, organized under local departments of education or the Ministry of Education, are typically made up of doctors, a speech therapist, psychologist, and other specialists. They assess children with disabilities and issue a conclusion with a recommendation as to whether a child should study in a

22 Law on Education, Art 26, point 2.
mainstream school, in a special school for children with disabilities, or at home, as well as the types of rehabilitation and support services to which the child is entitled.

Human Rights Watch interviews with children, parents, and school staff in multiple cities in Kazakhstan in 2017 and 2018 found that in practice, the PMPK conclusion is frequently treated as a definitive determination of whether a child can enroll in a mainstream school.

Under Kazakh law, the exact authority of the PMPK in determining a child’s access to education is unclear. On the one hand, rules regulating PMPKs suggest that the PMPK conclusion on the child’s eligibility is not definitive: the conclusion will include a “recommendation on the education conditions” (emphasis added) for a child.” 23 However, the same rules also state that “the basis for sending children with particular learning needs to special organizations [special schools] and educational organizations [mainstream schools] is the PMPK conclusion.” 24 In addition, the Law on Social and Medical-Pedagogical Support for Children with Disabilities stipulates that the way children with disabilities access mainstream pre-primary education and mainstream schools is with a PMPK conclusion. 25

Where children with disabilities do study in mainstream schools, inclusive education appears to include only children in lower grades; classes are held in buildings that do not meet Universal Design standards; and schools do not always provide reasonable accommodations for children. Barriers at mainstream schools include inaccessible buildings, classrooms, and toilets; a lack of trained and qualified staff to teach children with disabilities; or a lack of aides to support children with disabilities.

Human Rights Watch found that some special schools also struggle to provide a quality education because of a lack of physical accessibility, accessible materials, or teacher training.

Children with disabilities who are educated at home do not receive a quality education – teachers conduct no more than eight to ten hours of classes per week – and children are isolated and separated from their peers, classmates, and society more broadly. Kazakh law allows children to receive home schooling as a form of education; it is not envisioned exclusively as a temporary measure.

Human Rights Watch recommends to the Committee that it call upon the government of Kazakhstan to:

• Guarantee access to and participation in education for all children with disabilities on an equal basis with others, in line with the government’s international obligations.

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• Amend legislation to define inclusive education by a) including a provision that mainstream schools will provide reasonable accommodations and quality education to children with disabilities on an equal basis with others, including individualized support measures; and b) making clear that inclusive education is a right for every individual.

• Transform the Psychological-Medical-Pedagogical Consultations (PMPK) by introducing provisions in law that make explicit that children are not required to have a PMPK conclusion to attend mainstream schools. Ensure, and enforce through legal provisions, that PMPK assessments are solely for the purpose of determining the individual reasonable accommodations and support which a child will receive to ensure inclusive quality education. The assessment should involve individuals who are knowledgeable about a child’s abilities (parents, other relatives familiar with the child, teachers, other school staff) and the types of accommodations that may meet the child’s needs, without making an explicit recommendation about what school a child may attend.

• In line with the CRPD Committee General Comment no. 4, promote instruction and a teaching culture that moves away from a one-size-fits-all approach to learning towards one that can adapt to different learning abilities and styles and meets the diverse needs of all learners.

• Ensure that home education is exceptional and used only for short periods, and then only when absolutely necessary for health reasons, rather than a practice to further segregate children with disabilities.

• Ensure maximum inclusion of children in mainstream classrooms and avoid segregation of children with disabilities in special schools, home education, or in separate classrooms within mainstream schools.

• Ensure that children with disabilities and their parents have access to adequate comprehensive information, regarding education and the right to inclusive education, especially at key transition stages (e.g. preschool to primary; primary to lower secondary; upper secondary to higher education).
Tab 12
“Unity! Stability! Creativity!” This is the slogan of Nur Otan, the political party of Nursultan Nazarbayev, the Republic of Kazakhstan’s first and only president.

This report, examining discrimination and inequality in Kazakhstan, finds that the unity promoted by Nazarbayev is narrow, excluding those whose religion, ethnicity or political opinion challenges his vision, and denying an equal role to women, persons with disabilities and other groups.

A 2011 law on religion imposes onerous registration requirements, indirectly discriminating against minority religious groups. The promotion of the Kazakh language – spoken by only 74% of the population – creates barriers for ethnic minorities in accessing public services, employment and education. The state discriminates on the basis of political opinion, detaining its critics and limiting freedom of expression, assembly and association.

The unified Kazakhstan promoted by the government also provides little space for other groups. Women are subject to discriminatory laws and are underrepresented in the workforce and public life. Lesbian, gay, bisexual and transgender persons are subject to discrimination by both state and non-state actors. Persons with disabilities and those living with Human Immunodeficiency Virus are subject to paternalistic laws which are grounded in stereotypes.

The legal framework on equality is far from unified. The constitutional non-discrimination provision omits key grounds and there is no comprehensive equality legislation. Implementation of the provisions which are in place is weak. Thus, this report finds that, if Kazakhstan aspires to genuine unity, inclusive of all, much remains to be done.

The Equal Rights Trust is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice.

The Kazakhstan International Bureau for Human Rights and Rule of Law is a non-governmental organisation which aims to protect political rights and civil freedoms and to develop democracy and rule of law in Kazakhstan and other countries.

This report has been prepared with the financial assistance of the European Union. The contents of this report are the sole responsibility of the Equal Rights Trust and can in no way be taken to reflect the views of the European Union.
In the Name of Unity

Addressing Discrimination and Inequality in Kazakhstan

The Equal Rights Trust Country Report Series: 10
London, December 2016
The Equal Rights Trust is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice.

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Equal Rights Trust
314-320 Gray’s Inn Road
London WC1X 8DP
United Kingdom
Tel: +44 (0) 207 610 2786

www.equalrightstrust.org

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Unity! Stability! Creativity!

Election slogan of Nur Otan, the ruling party of Kazakhstan

The source of success is unity.

Abai Kunanbaev, The Book of Words
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**ACRONYMS AND ABBREVIATIONS**

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>CAT</td>
<td>Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment</td>
</tr>
<tr>
<td>CAT-OP</td>
<td>Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<tr>
<td>CERD</td>
<td>Committee on the Elimination of Racial Discrimination</td>
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<tr>
<td>CESCER</td>
<td>Committee on Economic, Social and Cultural Rights</td>
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<tr>
<td>CIS</td>
<td>Commonwealth of Independent States</td>
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<tr>
<td>CPPL</td>
<td>Communist People’s Party of Kazakhstan</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<tr>
<td>CRPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
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<tr>
<td>HRC</td>
<td>Human Rights Committee</td>
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<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<tr>
<td>ICERD</td>
<td>International Convention on the Elimination of All Forms of Racial Discrimination</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>ICESCR-OP</td>
<td>Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights</td>
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<tr>
<td>ICRMW</td>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families</td>
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<tr>
<td>IDU</td>
<td>Intravenous drug user</td>
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<tr>
<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>IOM</td>
<td>International Organization for Migration</td>
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<tr>
<td>KIBHR</td>
<td>Kazakhstan International Bureau for Human Rights and Rule of Law</td>
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<tr>
<td>LGBT</td>
<td>Lesbian, gay, bisexual and transgender</td>
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<td>MSM</td>
<td>Men who have sex with men</td>
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<tr>
<td>Acronym</td>
<td>Full Form</td>
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<td>---------</td>
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<tr>
<td>NSDP</td>
<td>Nationwide Social Democratic Party</td>
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<tr>
<td>ODIHR-OSCE</td>
<td>Office for Democratic Institutions and Human Rights</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization for Economic Co-operation and Development</td>
</tr>
<tr>
<td>OSCE</td>
<td>Organization for Security and Co-operation in Europe</td>
</tr>
<tr>
<td>PACE</td>
<td>Parliamentary Assembly of the Council of Europe</td>
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<tr>
<td>RPA</td>
<td>Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence</td>
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<tr>
<td>SSR</td>
<td>Soviet Socialist Republic</td>
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<tr>
<td>TB</td>
<td>Tuberculosis</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UNAIDS</td>
<td>Joint United Nations programme on HIV/AIDS</td>
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<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<tr>
<td>UPR</td>
<td>Universal Periodic Review</td>
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<tr>
<td>USD</td>
<td>United States Dollar</td>
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the ICESCR are required to guarantee all of the economic, social and cultural rights in the Covenant without discrimination on the basis of health status, including HIV status.\textsuperscript{886} This reflects a consensus position that the term “other status” in both the ICESCR and the ICCPR should be read as inclusive of health status as a protected characteristic.\textsuperscript{887} Consequently, Kazakhstan is required to guarantee all of the civil and political rights in the ICCPR without discrimination on the basis of health status, by virtue of Article 2(1) and, by virtue of Article 26 of the ICCPR, it is required to ensure that “the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination”, including on the grounds of health status.

3.7.1 Discrimination and Inequality on the Basis of HIV

The incidence of HIV in Kazakhstan is unclear, as data from different sources give varying figures. In 2014, the Joint United Nations programme on HIV/AIDS (UNAIDS) estimated the number of people living with HIV in Kazakhstan to be between 18,000 and 25,000.\textsuperscript{888} Kazakhstan’s report to UNAIDS in 2015, however, gave the number of people living with HIV at the end of December 2014 as 16,318,\textsuperscript{889} and the cumulative number of HIV cases to be 22,109.\textsuperscript{890} Prevalence has increased in the past decade, rising from 0.1\% in 2010\textsuperscript{891} to 0.2\% in 2014,\textsuperscript{892} though this remains relatively low compared to the 0.6\% prevalence rate in Central Asia and Eastern Europe.\textsuperscript{893} UN Women has de-
scribed the wider Central Asia region as experiencing “one of the youngest and fastest-growing HIV epidemics in the world”.

Historically the most at risk groups in Kazakhstan have been intravenous drugs users (IDUs) and sex workers. In 2014, more than 58.3% of the cases of HIV registered with the authorities were attributed to intravenous drug use. However the demographics of the HIV epidemic are changing rapidly, and the most recent Kazakhstani action plan on HIV/AIDS targeted sex workers and men who have sex with men (MSM), as well as IDUs. Men are over-represented amongst those contracting HIV, with UN Women reporting that, 44.1% of new cases of HIV in 2015 involved women.

Stigma and prejudice towards people living with HIV has been a significant problem in Kazakhstan. Testimony published by Human Rights Watch in 2003 offers a good indication of the extent of this stigma. For example, Alex Pasko, a 23 year-old living with HIV, described his sister’s attitude towards people with HIV as follows:

My sister said to me, ‘If I had my way, I would gather all of you together and cremate you, or put you behind a barbed-wire fence.’ My own sister, whom I love so much and would be ready to give my life for, said this to me.

There is no explicit prohibition of discrimination on the basis of HIV or other health status in Kazakhstani law. Article 14(2) of the Constitution


899 Ibid., p. 37.
prohibits discrimination based on a non-exhaustive list of grounds, which omits health status. While it could be argued that health status is a form of “other circumstance” within the meaning of Article 14(2), there are no national court decisions which recognise health status as falling within this conditional protection.

Nevertheless, there have been limited attempts to address some of the harms faced by persons living with HIV through the law. Under the Labour Code, an employer has no right to require that a current or prospective employee disclose their HIV status. Article 113(2) of the Code on Public Health and the Health Care System (the “Health Code”), in force since 18 September 2009, prohibits the dismissal of employees because of their HIV status as well as refusal to hire someone because of their HIV status. Article 112 of the Code prohibits discrimination on the grounds of a persons’ HIV status in the grant of healthcare.

Despite these protections, there are reports of discrimination and disadvantage affecting people living with HIV. For example, Svetlana cited by journalist Tatyana Em in a report on HIV in Kazakhstan spoke of her experience of harassment and her fear of discrimination in employment:

*I work in the service sector, and I hide my HIV status as I have faced insults and physical abuse a number of times. (...) People immediately become crude and rude to me when they find out about my status.*

Discrimination by doctors, nurses and other healthcare personnel against those living with HIV has been widely reported both in the past and in recent years, with lack of information and understanding about the disease compounding stigma. Human Rights Watch reported that in August 2002, a

900 See above, note 491: Article 32 states that a medical certificate may only be a condition of employment if health testing is mandatory under the Labour Code; Article 185 of the Labour Code provides that health testing is only mandatory for harmful or hazardous work; see also note 889, p. 23.

901 See above, note 660, Article 113(2).

902 Ibid., Article 112.

group of 250 doctors, nurses, and other medical personnel wrote to the Prime Minister to protest changes to testing requirements which removed mandatory testing for IDUs and prisoners. Individual reports of discrimination in accessing healthcare are common. One of the individuals interviewed by Human Rights Watch described the negative attitudes of healthcare professionals to patients with HIV.

"In the hospital the attitude of the doctors and nurses towards [persons living with AIDS] that have been hospitalized from here, well, they're just horrible. They stop speaking [to the patient] as soon as they find out that they're HIV-position."

Such attitudes remain prevalent. A 2015 media report concluded that stigma and ignorance contributed to discriminatory denial of health services for people living with HIV:

"In community clinics, doctors are extremely reluctant in receiving HIV-infected patients once they learn about the patient’s status. And it is much worse for hospitalization [of patient] with multiple infections such as tuberculosis and hepatitis. It takes months to obtain a quota for free treatment. And this can be deadly for a person with weak immune system."

**Multiple Discrimination**

There is evidence of multiple discrimination on the basis of gender and HIV status and sexual orientation and HIV status. Women and girls are at increased risk of rejection by their families if their HIV status becomes known, and women living with HIV face violence, stigma, and discrimination. This is particularly true of women living in rural areas, where “stereotypes

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904 See above, note 898, p. 40.

905 Ibid., p. 39.


907 See above, note 903.
(...) strongly affect and increase the vulnerability of women in regards to HIV.\textsuperscript{908} One woman interviewed by the media described how she contracted HIV from her husband and then violence and stigma from her husband and his family as a result:

\textit{At that time, [my husband] already knew he was infected with HIV; he would go to the hospital for tests but would not tell me about it. When I was diagnosed with HIV, his family beat me and forced me out of the house. I was left alone, without my children, with no money and no roof over my head.\textsuperscript{909}}

Official statistics for 2013 put the incidence rate of HIV among MSM at 1.2\%.\textsuperscript{910} Widespread stigma and discrimination against LGBT persons means that MSM are frequently unwilling to tell state-sanctioned surveys and doctors that they have sex with men, leading to a distortion in statistics.\textsuperscript{911} As Human Rights Watch noted in 2003:

\textit{Men who have sex with men in Kazakhstan experience such severe stigma and discrimination that outreach to them has been extremely limited, resulting in little reliable statistical or even anecdotal information about the impact of HIV/AIDS on them.\textsuperscript{912}}

In 2014, the Global Fund noted that “little attention and financing are given to combat the HIV/AIDS epidemic among MSM in Kazakhstan”.\textsuperscript{913} Research conducted by the Johns Hopkins Center for Public Health and Human Rights, the Global Health Research Center of Central Asia at Columbia University

\begin{flushleft}
908 Ibid.
909 Ibid.
910 See above, note 895, p. 6.
912 See above, note 898, p. 41.
\end{flushleft}
(GHRCCA), and the local civil society organisation Amulet, provides evidence of multiple discrimination affecting access to HIV-related health services for MSM. A number of self-identified MSM were interviewed, with nearly 90% stating that they had trouble accessing free condoms, only 33% had ever had an HIV test, and more than 60% were afraid to tell their health care providers about their sexual orientation.

3.7.2 Discrimination and Inequality on the Basis of Tuberculosis

The Health Code provides for the forced medical treatment of persons with tuberculosis under Article 105(2) which states that, “[p]atients with infectious tuberculosis shall be subject to mandatory hospitalization, treatment and rehabilitation”. Although the CESCR has acknowledged that coercive medical treatment may be used in the “prevention and control of communicable diseases”, their use should be restricted to “exceptional” cases and subject to “specific and restrictive conditions”. The imposition of a mandatory hospitalisation for all persons with tuberculosis cannot be considered “exceptional”; it also provides no opportunity for consideration of the specific conditions which the Committee has stated must be taken into account. The Health Code also fails to set out a method of reviewing or challenging the decision the decision to apply forcible treatment.

Conclusion

In the absence of comprehensive official statistics, it is difficult to determine the full extent of discrimination based on health status. Nevertheless, it seems clear from the evidence which is available that people living with HIV experience prejudice, stigma and discrimination. This evidence indicates that people living with HIV routinely experience discrimination in employment and in


916 See above, note 660, Article 105.

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“Unity! Stability! Creativity!” This is the slogan of Nur Otan, the political party of Nursultan Nazarbayev, the Republic of Kazakhstan’s first and only president.

This report, examining discrimination and inequality in Kazakhstan, finds that the unity promoted by Nazarbayev is narrow, excluding those whose religion, ethnicity or political opinion challenges his vision, and denying an equal role to women, persons with disabilities and other groups.

A 2011 law on religion imposes onerous registration requirements, indirectly discriminating against minority religious groups. The promotion of the Kazakh language – spoken by only 74% of the population – creates barriers for ethnic minorities in accessing public services, employment and education. The state discriminates on the basis of political opinion, detaining its critics and limiting freedom of expression, assembly and association.

The unified Kazakhstan promoted by the government also provides little space for other groups. Women are subject to discriminatory laws and are underrepresented in the workforce and public life. Lesbian, gay, bisexual and transgender persons are subject to discrimination by both state and non-state actors. Persons with disabilities and those living with Human Immunodeficiency Virus are subject to paternalistic laws which are grounded in stereotypes.

The legal framework on equality is far from unified. The constitutional non-discrimination provision omits key grounds and there is no comprehensive equality legislation. Implementation of the provisions which are in place is weak. Thus, this report finds that, if Kazakhstan aspires to genuine unity, inclusive of all, much remains to be done.

The Equal Rights Trust is an independent international organisation whose purpose is to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice.

The Kazakhstan International Bureau for Human Rights and Rule of Law is a non-governmental organisation which aims to protect political rights and civil freedoms and to develop democracy and rule of law in Kazakhstan and other countries.

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This report has been prepared with the financial assistance of the European Union. The contents of this report are the sole responsibility of the Equal Rights Trust and can in no way be taken to reflect the views of the European Union.
Tab 13
HIV criminalisation: another form of violence against women in Eastern Europe and Central Asia, by Eugenia Maron

Breaking Our Chains
Ending the Culture of Violence

23 October 2016

Psychosocial violence is key

Today, October 23, 2016, Positive Women’s Network – USA observes the third National Day of Action to End Violence Against Women living with HIV.

This is an event to create awareness about the levels of violence faced by women living with HIV and to mobilise action to end that violence. As PWA USA Executive Director, Nalina Kharma, describes it, for women, violence is both a cause and a consequence of living with HIV.

The 2016 Day of Action takes as its focus a pernicious form of violence: the criminalisation of women living with HIV.

On the other side of the Atlantic Ocean, in Eastern Europe and Central Asia, raising attention to HIV criminalisation as a form of violence against women living with HIV presents a new angle from which to examine how both of these phenomena are intertwined. Let us consider this intersection, where HIV-related stigma, HIV criminalisation and gender inequality place women at greatest risk of violence, maltreatment and injury.

To date, the HIV Justice Network has documented prosecutions of women under HIV-specific laws committing alleged HIV non-disclosure, potential or perceived exposure, and non-intentional transmission in Russia (12 cases), Belarus (9 cases), Kazakhstan (12 cases), Kyrgyzstan (1 case), Moldova (1 case), Tajikistan (11 cases) and Ukraine (4 cases). The actual number of prosecutions is certainly much higher.

Let’s take a closer look at Russia’s 12 cases against women living with HIV. In Russia, alleged HIV non-disclosure, potential or perceived exposure, and non-intentional transmission are penalised by up to a maximum of eight years in jail.

Examining the media coverage, none of these women had an opportunity to speak for herself publicly, and at least half of them were subjected to public ‘shaming’ in the media because it was alleged they had multiple intimate partners.

The other half of the women were prosecuted by their intimate male partners. The language of the publications degrades the women as irresponsible and uninsured subjects, highlighting their neglect of barrier contraception measures and their responsibility to decide, and characterises the women as the ‘source of infection’. Although it seems that the media were trying to be sympathetic toward these women, the media authors fail to excite pity with stories by adding details about their poor state of health, bearing children at a young age, and else that they pleased guilty.

Stigma and discrimination, particularly where women’s moral conduct is judged, play a major role in the severe social and physical consequences that women suspected of being HIV-positive can face, impacting media, the legal system and community.

HIV-related stigma and discrimination switches the media’s focus away from the perpetrators of sexual violence and their punishment to speculations about the culpability of a woman’s actions.

HIV-related stigma and discrimination creates HIV-specific laws based on the assumption that women living with HIV are potential perpetrators in need of state control.

HIV-related stigma and discrimination impacts how communities see women living with HIV,
powerlessness among women results in their vulnerability to violence in both patriarchal and patriarchal communities, where the whole family may feel shamed because of the HIV status of a female family member, and may feel higher levels of domestic violence, but it goes beyond this.

In Russia, with its 100,000 women who have tested HIV-positive, the fear of partner violence persists as a daily reality. Russia has the number of sexual assaults and gender-based violence crimes against 30,000–50,000 women per year and 10% of them reported to the police. In the Russian People, Living with HIV stigma index study, one-fifth of the people with HIV who faced violence said it was perpetrated by their partner.

Indeed, starting from 2007, we have documented at least eight cases of brutal killings of women who either disclosed their HIV-positive status to their partners or were alleged by the killers to be positive in HIV-positive status. As a result, non-disclosure might be a coping strategy that women develop to try to prevent violence at home, while simultaneously risking prosecution as criminals because of the criminalization of HIV non-disclosure.

Similarly, in Belarus, the five women who were prosecuted under HIV criminal laws were characterized as immoral women of easy virtue, alcohol abusers, and unable to take measures to prevent HIV transmission. These women were prosecuted for other crimes, including public sexual behavior, in HIV-positive women. The women were also denied medical care, including antiretroviral treatments. This resulted in the women’s deaths, as well as the spread of HIV to others.

In Ukraine, at least four women prosecuted both for HIV transmission to their intimate partners or to their partners’ children, and for HIV disclosure. A new treatment for women with HIV, retroviral therapy, is available in Ukraine, which represents a positive turning point since 2011.

We recently received information about a case in which a woman, accused of alleged non-disclosure, was acquitted. The court argued that “the relationship that developed between the parties in that case was about HIV exposure. Finally, the crime did not constitute the HIV exposure, but only actions that could have been considered as disclosure.”

Further, the court found that the guilt of the sexual partner of the HIV-positive defendant in creating the threat of HIV exposure was greater than the guilt of the defendant, who was 18 years older than her, had more experience, and had a 14-year-old friend who had a similar experience. In these cases, women and girls are seen as having aprusmous sexual behavior. Overall, in Ukraine, the courts tended to respond to HIV criminalization laws against women by reducing the penalty from life in prison to a suspended sentence.

In Kazakhstan, a woman living with HIV from Kamyskent, was taken by the police to the AIDS center in her home to take antiretroviral medication during her pregnancy. The police visited the woman at home, and the woman had no information about HIV testing. The police did not offer the woman to her prior police involvement.

Further, as documented by us, women in Kazakhstan, Kyrgyzstan, and Tajikistan who are marginalized because they do sex work, have been disproportionately targeted by police, and found themselves subject to forced HIV testing.

The criminalization of sex work along with public caricatures of sex workers as “lair” responders for HIV increases sex workers’ risk for HIV, which increases their vulnerability to HIV transmission.

In Kazakhstan, Alma-Ata police identified 10 sex workers as HIV-positive and conducted a search for their clients; however, it remains unknown if the search brought further charges.

In Kyrgyzstan, the practice of using HIV testing in association with police raids on sex workers’ premises, law enforcement personnel, in order to provide for the formal requirements of the law, means AIDS center staff members, who obtain written consent to HIV testing under conditions of arbitrary detention, are also known cases where the police detained sex workers and illegally sent them for forced medical testing, including for STIs and HIV.

Similarly, in Tajikistan, 50 sex workers were detained and forced to undergo HIV and STI testing. Community organizations report that often the test results are discussed in front of other domiciles and police staff.

One way or another, all of these can be also framed in terms of structural or cultural violence, in which social structures are used to justify direct violence or situations that drastically increase the vulnerability of women living with HIV to violence.

The biggest problem is that we know HIV-related stigma and HIV criminalization evolve to forms of cultural violence that make the community and media understand fear right about blaming the women with HIV who experience an HIV-related prosecution, making this acceptable in our societies.

There is no doubt that gender shapes HIV disclosure motivations and reactions. Disclosure is not a gender-neutral event because women face the possibility of increased violence afterwards. It is an impossible choice: choosing between the immediate need to protect themselves from partner violence, or a risk that they can go to prison for alleged HIV non-disclosure, exposure, or transmission.

No matter where it occurs, it is time to claim justice for women living with HIV.

Evgenia Moroz is the HIV Justice Network’s ECCA Consultant

The HIV Justice Network is a founding partner of HIV Justice Worldwide, together with the Positive Women’s Network-U.S.A., AIDS Rights Alliance of Southern Africa (ARASA), the EFA Project, the Canadian AIDS Society, Global Network of People Living with HIV (GPLW), and the International Community of Women Living with HIV (ICW). More information about HIV Justice Worldwide is available here.

Сегодня, в воскресенье, 23 октября 2016 года, «Сеть сообществ женщин-с ИУН» объявила тревогу национальной дни, обратившись к президенту и правительству России.
Attitudes towards People Living with HIV People Who Inject Drugs: A Mixed Method Study of Stigmas within Harm Reduction Programs in Kazakhstan.

Kristi Lynn Stringer\textsuperscript{a}, Trena Mukherjee\textsuperscript{b}, Tara McCrimmon\textsuperscript{a}, Assel Terlikbayeva\textsuperscript{c}, Sholpan Primbetovac\textsuperscript{c}, Meruyert Darisheva\textsuperscript{c}, Timothy Hunt\textsuperscript{a}, Louisa Gilbert\textsuperscript{b}, and Nabila El-Bassel\textsuperscript{a}

\textsuperscript{a}Columbia University, Department of Social Work. New York, New York

\textsuperscript{b}Columbia University, Mailman School of Public Health, Department of Epidemiology. New York, New York

\textsuperscript{c}Global Health Research Center of Central Asia. Almaty, Kazakhstan

Abstract

\textbf{Background:} High levels of stigma towards people who inject drugs (PWID) and people living with HIV (PLWH) exist in Kazakhstan, yet little is known about the role of stigma in harm reduction service settings. In this paper, we use a mixed method design to explore and describe the actionable drivers and facilitators of stigma among harm reduction service providers. Additionally, we describe the manifestations of stigma among PWID who are living with HIV (PWID/LWH), and the impact that stigma has on harm reduction and healthcare service utilization.

\textbf{Methods:} Eight focus groups with 57 PWID/LWH were convened between March 2016 and July 2016 to describe manifestations of stigma from the perspective of syringe exchange program (SEP) clients. Additionally, we surveyed 80 nurses, social workers, outreach workers, and providers of HIV care at SEPs between January 2017 and July 2017 to assess stigmatizing...
attitudes among staff within the SEP environment. Joint displays were used to integrate quantitative and qualitative data.

**Results:** The actionable drivers of stigma identified in this study include negative opinions and moral judgements towards PWID/LWH. Facilitators identified included stigmatization as a social norm within the service provision environment, a lack of awareness of anti-discrimination policies, and lack of enforcement of anti-discrimination policies. Qualitative findings highlight manifestations of stigma in which PWID/LWH experienced denial of services, perceived negative attitudes, and avoidance from service provision staff. PWID/LWH also described segregation in healthcare settings, the use of unnecessary precautions by providers, and unauthorized disclosure of HIV status.

**Conclusions:** This paper highlights the urgent need to address stigma in the harm reduction and HIV service settings in Kazakhstan. These findings have implications for informing an actionable model for stigma reduction for providers who deliver services to PWID/LWH in Kazakhstan. Drivers, facilitators, and manifestations of stigma are multifaceted and addressing them will require a multilevel approach.

**Keywords**
Stigma; Harm Reduction; HIV; PWID

**INTRODUCTION**
Kazakhstan is experiencing one of the fastest growing HIV epidemics in the world. Though the epidemic is increasingly being driven by sexual transmission, the prevalence of HIV remains highest among people who inject drugs (PWID) at 8.5%, compared to 0.2% in the general population (UNAIDS, 2016). There are approximately 127,800 PWID in Kazakhstan, and injection drug use is responsible for over 50% of all HIV cases (Degenhardt et al., 2017; UNAIDS, 2016). The United Nations has set ambitious targets, referred to as 90-90-90, to “end AIDS” by 2020. That is, 90% of all people living with HIV (PLWH) will know their HIV status, 90% of PLWH will receive antiretroviral therapy (ART), and 90% of PLWH on ART will reach viral suppression (UNAIDS, 2014). It is estimated that approximately 81% of PWID living with HIV (PWID/LWH) in Kazakhstan are aware of their status, 39% are on ART, and only 21% are virally suppressed (Republican AIDS Center of Kazakhstan, 2017). Criminalization of drug use, policing, and stigma contribute to the underutilization of syringe exchange programs (SEPs), which are critical to halting the onward transmission of HIV among PWID (Aspinall et al., 2013). A recent study of access to care among PWID in Kazakhstan reported that only 11.1% of injection drug users have ever utilized services at an SEP (Shaw et al., 2017). Due to the rising rates of HIV infection among PWID and low rates of viral suppression and SEP utilization, there is an urgent need to engage PWID in harm reduction services and HIV care; yet little is known about barriers, such as stigma, to these services in Kazakhstan.

Globally, PWID/LWH experience multiple stigmas, (Burke et al., 2015; Calabrese et al., 2016; Earnshaw, Smith, Cunningham, & Copenhaver, 2015) and studies have shown stigma to be both a driver of HIV infection and a barrier to HIV healthcare utilization (Katz et al.,...
Stigma is defined as the social devaluation and discrediting that is associated with certain characteristics, behaviors, illnesses, and social statuses (Goffman, 1963). Stigma is typically characterized as being: enacted through experienced interpersonal acts of discrimination; perceived through perceptions of stigma and expectations during intrapersonal interactions; internalized when beliefs associated with PWID/LWH are personally endorsed; or anticipated based on stories or witnessed accounts of how other PWID/LWH have been treated in the past (Earnshaw, Smith, Chaudoir, Amico, & Copenhaver, 2013; Turan et al., 2017). Stigma attached to HIV/AIDS is layered upon pre-existing stigma associated with drug use, making the pathways of stigma mutually reinforcing and difficult to disentangle in healthcare settings (Chan, Stoové, Sringernyuang, & Reidpath, 2008; Chan, Yang, Zhang, & Reidpath, 2007; Reidpath & Chan, 2005).

Key populations such as PWID often face multiple stigmas associated with HIV, including stigma associated with illicit drug use, incarceration, commercial sex work, and minority sexual/gender status (Chan et al., 2007; Levi-Minzi & Surratt, 2014). PWID/LWH may also face stigma in harm reduction and medical care environments (Schuster et al., 2005). In these environments, HIV-related stigma manifests through a wide range of discriminatory and stigmatizing practices. These practices include patient neglect and isolation, differential treatment, denial of care and testing, the provision of substandard services, disclosure of a patient’s seropositive status without his or her consent, verbal harassment, and gossip (Andrewin & Chien, 2008; Feyissa, Abebe, Girma, & Woldie, 2012; Mahendra et al., 2007; Reis et al., 2005; Tanzania Stigma–Indicators working group, 2005). Perceived stigma within the healthcare environment has shown to predict lower utilization of healthcare and drug treatment services (Kinsler, Wong, Sayles, Davis, & Cunningham, 2007; Sayles, Wong, Kinsler, Martins, & Cunningham, 2009).

Despite the HIV epidemic being fueled in Kazakhstan by injection drug use, few studies have examined stigma related to HIV and/or PWID, and none have focused on stigma among PWID/LWH in the Central Asian context. Smolak and El-Bassel (2013) examined multi-level stigma and HIV testing among Kazakhstani women and found that HIV stigma operates on the individual, family, and community levels to hinder HIV testing uptake. The 2015 People Living with HIV Stigma Index for Kazakhstan represents the first study of HIV related stigma among people living with HIV in the region (Amanzholov, Yakovleva, & Kamaldinov, 2016). The People Living with HIV Stigma Index reported that one in three people living with HIV in Kazakhstan has experienced fears of gossip, 18% reported being denied medical care, and 28% of reported that a healthcare worker has disclosed their status without their consent. Furthermore, they found healthcare providers to be the primary perpetrators of HIV stigma in Kazakhstan, as compared to other civil servants, friends, and/or family and thus concluded with several strategic objectives to ensure PLWH live free of stigma and discrimination, the first of which is to reduce HIV-related stigma in healthcare facilities in Kazakhstan.

Evidence from research outside of Kazakhstan suggests that stigma related to injection drug use impacts utilization of harm reduction and health-related services (i.e. syringe access, medical care, and drug treatment) (Paquette, Syvertsen, & Pollini, 2018; Rivera, DeCuir,
Crawford, Amesty, & Lewis, 2014). Only one study to date, however, has examined drug use stigma among service providers in the Central Asian context. Ibragimov and colleagues’ (2017) study in neighboring Tajikistan, highlighted prejudicial attitudes towards PWID among pharmacists. They found that stigma resulted in pharmacists’ refusal to sell syringes to PWID.

Significant research gaps remain in understanding these co-occurring stigmas and their possible impact on health in the Central Asian context. The current study will build upon the People Living with HIV Stigma Index findings by using mixed methods to elucidate PWID/LWH experiences of stigma and discrimination within the harm reduction service provision setting. Further, we extend the findings of the People Living with HIV Stigma Index by including surveys with service providers designed to examine attitudes of towards PLWH and PWID, training related to stigma, facility level policies and protocols, and norms related to stigma and discrimination.

Theoretical Framework

To inform the aims of this paper, we used the Stigma and Discrimination Framework for Program Implementation and Measurement presented by Stangl and colleagues (Stangl, Brady, & Fritz, 2012; Stangl et al., 2010; A. L. Stangl, Lloyd, Brady, Holland, & Baral, 2013). According to this framework, the process of stigmatization in healthcare settings may be broken into specific domains: actionable drivers, facilitators, and manifestations of stigma. Further, stigma may exist at the individual level through attitudes and behaviors of individual healthcare providers, at the institutional level through social norms and discriminatory practices, or at the policy level in which policies to protect healthcare providers and patients are enforced. According to the Stigma and Discrimination Framework for Program Implementation and Measurement, actionable drivers of stigma include individual-level factors that negatively influence the stigmatization process such as a lack of awareness of stigma and its consequences, the fear of HIV infection through contact with PLWH, and negative social judgment towards PLWH and key populations at highest risk of HIV infection (Nyblade & Carr, 2004). Facilitators include social norms related to stigma within the service provision setting, the availability of supplies and protocols to reduce the chances of HIV transmission, awareness of facility policies related to stigma and discrimination, and the perceived enforcement of such policies. Finally, this framework describes manifestations of stigma as specific instances of stigmatization. This paper aims to use the Stigma and Discrimination Framework for Program Implementation and Measurement to describe the actionable drivers and facilitators of stigma among service providers at SEP facilities. Further, this paper also aims to identify and describe the manifestations of stigma and their impact on harm reduction and healthcare service utilization.

METHODS

The Institutional Review Board at Columbia University & the Ethics Committee of the Kazakhstan School of Public Health approved this study. Informed consent was obtained from all participants prior to the initiation of all research related activities. The guidelines
for good reporting of a mixed methods study (GRAMMS) were used (O’Cathain, Murphy, & Nicholl, 2008).

Study Design

Data for this analysis was collected during the pre-implementation phase of project Bridge. Bridge is a step-wedge, cluster-randomized study that tests the effectiveness and implementation outcomes of a linkage to HIV care intervention for PWID (McCrиммон et al., n.d.). This data was collected using a sequential (QUAL→QUANT) transformative mixed method approach in which qualitative data collection and analysis informed the selection of assessments to be delivered during quantitative data collection. Our justification for the use of mixed methods was twofold. First, the use of mixed methods allowed for the mutual corroboration of quantitative and qualitative results. Second, the use of mixed methods provided a more comprehensive account of stigma experiences by exploring the phenomenon from multiple vantage points. We chose the transformative mixed method approach due to the nature of the research question. Specifically, a study is said to be “transformative” when research is change oriented and guided by a framework for examining social inequalities and/or marginalization. Consistent with the transformative paradigm, we sought to highlight the voices of PWID/LWH by giving the qualitative and quantitative data equal priority.

Recruitment

To recruit participants for focus groups, we relied on a convenience sample recruited in the Kazakh cities where Bridge is being implemented. Participants were recruited through flyers distributed by the AIDS Center and by community partners (NGOs). Additionally, we recruited focus group participants through peer-driven snowball recruitment. Trained research assistants conducted a brief, anonymous screening with potential participants for the following eligibility criteria: 1) aged 18 years or older; 2) self-report injection drug use in the past year; 3) self-report being HIV-positive; 4) basic Russian fluency as determined during informed consent; and 5) cognitively unimpaired and able to take part in a focus group (assessed by the research assistant during informed consent). Fifty-nine participants were screened and 57 participants were deemed eligible for focus group participation.

We recruited service providers for quantitative surveys and PWID/LWH for focus groups who were part of the Bridge project. The current analysis uses data collected from surveys completed at three time points (January 2017, July 2017, and January 2018), across three sites (Almaty, Shymkent, and Karaganda/Temirtau) prior to the implementation of project Bridge. We selected 80 staff to participate in the survey. The staff were recruited by the Republican AIDS Center of Kazakhstan. For participants whom we had repeated stigma measurements (because they were interviewed at more than one time point), we selected the most recent survey measures before the implementation of project Bridge.

Data collection

PWID/LWH focus groups: Overall, eight focus groups were completed with PWID/LWH clients; each lasted approximately two hours. Trained research staff from the Global Health Research Center of Central Asia facilitated all focus groups using a semi-structured focus
group discussion guide (Appendix A). Focus group topics included experiences and engagement with HIV services and barriers to receiving HIV services faced by PWID/LWH. Stigma was not explicitly asked about during focus groups; however, it emerged as an important barrier to service utilization. Focus groups were audio recorded, transcribed in Russian, and then translated to English. Participants received a compensation of 3,500 tenge ($10 USD) for their time and transport.

Service provider surveys: Service providers completed a battery of surveys assessing the organizations readiness to implement the Bridge intervention. Research assistants administered surveys in-person and participants' responses were entered directly into a secure Web-based data entry system (DATSTAT, 1997). Surveys took approximately two and a half hours to complete. Service provider participants received 5,300 tenge ($15 USD) for their time and transport compensation.

Quantitative Assessments

Stigma drivers and facilitators were measured using the “Measuring HIV Stigma and Discrimination among Health Facility Staff” questionnaire which is publicly available through the Health Policy Project website (Health Policy Project, 2013; Nyblade et al., 2013). Actionable drivers measured included stigma and discrimination training, fear of HIV transmission, opinions about PLWH, and the desire to provide care for PWID. Facilitators included social norms within the service provision setting, availability of supplies and protocols to reduce HIV transmission, awareness of S&D policy, and S&D policy enforcement within the service provision setting. Participants were allowed to choose “not applicable” if the question assessed an activity that was not performed as part of their regular job duties. Additionally, all Likert-scale items were dichotomized to Yes/No, Worried/Not Worried, and Agree/Disagree. This questionnaire has shown to be a valid measure of stigma, and of drivers and facilitators of stigma across diverse country contexts (Cronbach’s $\alpha = 0.67 - 0.77$) (Nyblade et al., 2013).

Data Analysis

Qualitative data analysis began with an initial open coding as a starting point, providing analytic leads to identify initial codes and a preliminary coding structure. Open coded results were then sifted, sorted, and categorized into a provisional framework for second cycle coding. Second cycle coding included two trained researchers who used the provisional codebook developed during first cycle coding to simultaneously code two transcripts. Incongruences were discussed, resolved, and modified in the codebook. This process was repeated once more applying the modified codes to three transcripts. Once complete, each coder coded half of the remaining transcripts using the final modified codebook. Final categories of codes included type of stigma (PWID, HIV, other), the way in which stigma manifested (i.e. gossip, unauthorized HIV disclosure, denial of services, etc), and the location where the stigma was experienced (i.e. SEPs, AIDS Center, in the community, etc.). These categories were then sorted into overarching themes. The overall percent agreement across all codes was 95.59%. To maintain confidentiality, all participants’ names were removed and replaced with pseudonyms. Quantitative data analysis consisted of descriptive
statistics (frequency and percentages) for all items, and was obtained using SPSS version 21 (IBM, 2012).

Data Integration

Data were integrated by weaving the qualitative findings through the description of quantitative findings (narrative approach); and visually depicting potential associations between qualitative and quantitative findings (joint display) (Fetters, Curry, & Creswell, 2013). When appropriate, joint displays are presented throughout the results section that contain both quantitative and qualitative results in the form of tables. The construction of the joint displays were guided by the core concepts of the Stigma and Discrimination Framework for Program Implementation and Measurement, which include actionable drivers, facilitators, and manifestations of stigma. Specifically, the pairing of actionable drivers and facilitators of stigma as reported by service providers with the manifestations and outcomes of stigma as reported by clients enabled the assessment of coherence between qualitative and quantitative findings (confirmation, expansion and/or discordance).

Integration of the findings was independently conducted and assessed by two investigators (KLS and TM) who met to discuss the findings and achieve consensus.

RESULTS

For the qualitative phase, we conducted eight focus groups with 57 participants who reported both living with HIV and engaging in injection drug use. Focus group participants included 32 females (56.14%) and 25 males (43.86%). The mean age of focus group participants was 40.19 years (range = 21-53 years). For the quantitative phase, 80 surveys were administered to nurses (n=23), social workers (n=7), outreach workers from SEPs (n=45), and nurses employed by the AIDS center (n=5).

Actionable Drivers of Stigma

Table 1 is a joint display that contains quantitative data on actionable drivers of stigma from service providers as well as qualitative manifestations of stigma as described by PWID/LWH. The drivers we explored concerned (i) training/knowledge regarding HIV-related stigma and discrimination, (ii) fear of HIV transmission, and (iii) social judgement toward PLWH and PWID.

Training/knowledge regarding HIV-related stigma and discrimination: One question was designed to evaluate whether participants had received specific training related to stigma and discrimination in the last 12 months. Eleven participants left the question blank. Of those who did answer this question, 84.06% of our service provider participants reported having received stigma and discrimination training in the last 12 months.

Fear of HIV Transmission: Service providers were asked several questions concerning fear of transmission and the use of extra precautions taken with PLWH. In responding to these questions 17.50% of providers reported they would be worried if they had to draw blood from an HIV infected patient and 27.50% would be worried if they had to dress the wounds of a PLWH. Few participants reported they worried taking the temperature of a PLWH (2.50%) or touching the clothing of a PLWH (7.50%).
Self-reported stigmatizing avoidance behavior driven by transmission fear: Service providers reported using a variety of extra precautions when caring for PLWH. 37.50% reported wearing gloves during all aspects of care for PLWH, 15.00% reported wearing double gloves, 13.75% reported avoiding physical contact with patients living with HIV, and 30.00% reported using some type of special measure that they do not use with other patients. Focus group participants reported that service providers often used extra precautions when providing services. The qualitative excerpts located in Table 1 corroborate and expand upon survey results by presenting these same stigmatizing infection control strategies from the viewpoint of the client (Quote 1-2). Specifically, PWID/LWH reported client avoidance and the use of masks during patient care. As exemplified by Quote 2 located in Table 1, participants also reported that providers either would outright deny care to PWID/LWH, delay the provision of services, or would refer them elsewhere for care because they did not want to provide services to them. Some participants reported feeling as if these behaviors were driven by fear or a lack of knowledge about how HIV is transmitted (Table 1, Quotes 3-4).

Opinions about people with HIV and PWID: The majority of respondents (94.3% of healthcare workers and 80% of outreach workers) endorsed at least one stigmatizing attitude. The most commonly endorsed stigmatizing attitude was that “People get infected with HIV because they engage in irresponsible behaviors” (61.25%), followed by “Most people living with HIV do not care if they infect others” (50.00%), and “Most people living with HIV have had many sexual partners” (37.50%). While focus group participants cannot speak directly to the attitudes and belief system of the service providers, they described service providers who interacted with clients in a biased and judgmental fashion and that such attitudes resulted in discomfort in accessing services and clients avoiding services (Table 1, Quote 5 - 8).

One question in the “Measuring HIV Stigma and Discrimination among Health Facility Staff” questionnaire is designed to measure stigma towards PWID. This question asks participants if they agree or disagree with the following statement: “If I had a choice, I would prefer not to provide services to people who inject illegal drugs.” Among our sample, 16.25% of participants agreed that they would prefer not to provide services to PWID. For those who agreed with this question, they were asked why they would prefer not to provide services to this population. Of the 13 participants who reported they prefer not to provide services to PWID, five indicated they prefer not to provide services to this population because “They put me at a higher risk for disease”, and three indicated they preferred not to provide care to PWID because “This group engages in immoral behavior.” Only one participant stated that they prefer not to provide services for this population because they have not received training to work with this group. Four participants did not provide any reason for their preference not to provide care to PWID. Focus group participants reported instances in which HIV care providers would deny care to clients referred from SEPs because of their status as a PWID (Table 1, Quote 4).
Facilitators of Stigma

Facilitators we explored included (i) social norms related to S&D towards PLWH within the service provision setting, (ii) availability of supplies and protocols to reduce the chances of HIV transmission, (iii) awareness of facility policy related to S&D, and (iv) perceived enforcement of policies related to S&D. The joint display in Table 2, integrates quantitative results from service providers with qualitative quotes expressing the manifestations of stigma perceived by PWID/LWH.

S&D Related Social Norms: To measure institutional-level social norms around stigma, we asked participants how often they had witnessed stigmatizing or discriminatory actions by other service providers towards PLWH. Results suggest that stigmatizing actions towards clients is fairly normative in the service provision setting. Over one third of service provider participants reported witnessing healthcare workers being unwilling to provide care for PLWH (32.25%), providing poorer quality of care for PLWH (33.75%), or talking badly about PLWH (31.30%). These findings are in accord with PWID/LWH focus group findings as discussed above.

Supplies and Protocols to Reduce HIV Transmission: We asked participants about the availability of supplies and the existence of procedures and protocols to reduce their chances of becoming infected with HIV. The majority (83.75%) reported that their facility provided supplies to reduce their chances of becoming infected with HIV. Further, over 93.00% reported that there are protocols in place at their facility to reduce their chances of HIV infection.

Policies related to S&D: Regarding policies against HIV related stigma, 67.50% reported their facility has guidelines to protect PLWH from discrimination, focus group discussions with PWID/LWH, however, revealed that some facility policies may actually reinforce stigma through unauthorized disclosure. Specifically, participants reported instances of patient segregation and labelling (Table 2, Quotes 1-2) which led to unauthorized disclosure of their HIV status. PWID/LWH participants also described the displaying of facility logos during outreach events and the practice of having a separate entrance for SEP service users as policies that unintentionally disclose their status as a PWID or PLWH (Table 2, Quotes 3-4). Furthermore, while over 67% of participants reported the existence of policies to protect people from stigma and discrimination, only 30.00% reported they would get in trouble if they were to discriminate against PLWH indicating a failure to enforce such policies. Focus group participants also noted a need for better policy enforcement and staff oversight within the service provision environment (Table 2, Quotes 5-6).

Manifestations of stigma

Qualitative interviews with PWID/LWH describe manifestations of enacted and anticipated stigma within healthcare settings that give context to the quantitative data provided by healthcare providers above.

Enacted Stigma: From the clients’ perspective, there is a consensus that PWID/LWH are commonly stigmatized in both the harm reduction and HIV care service provision environments due to their PWID and HIV status. In addition to the above manifestations of
stigma, participants frequently described negative dispositions from service providers, in which PWID/LWH patients are treated as inferior:

- They just like to behave themselves in such a manner – [healthcare workers] humiliates us [because] he is a healthy guy, he achieved everything himself, but you're flawed and came for syringes. — “Inna”, 37 year old female, Almaty

- The problem is in medical workers attitudes towards PWIDs. When all is good with a man, there are no problems. But when a man has no place to live, they can’t link him to services, they begin to create a lot of barriers making everything rather complicated. — “Martemyan”, 45 year old male, Shymkent

Focus group participants reported enacted stigma from both service providers and other clients in the service provision environment:

- Yes, there is such an attitude that as soon as they get to know about the status, not only the doctors jump aside, but other people do as well

- they point their fingers at me – look, HIV, she’s HIV infected! — “Viktoriya”, 44 year old female, Almaty

One participant recalled that, when visiting an SEP located within an AIDS Center, PWID are asked to provide proof of injection drug use before workers will provide them with syringes. He describes this as a barrier to the utilization of SEP services:

- When guys come [to the AIDS Center] to get syringes, they have to prove that they are drug-users! They [staff] ask them: “well, show traces from injections – you don’t look like user”. There were almost scandals. Our guys didn’t manage to get syringes… You see… let’s assume, a person comes once, and they look amiss at him, say amiss – next time he doesn’t want to come. Why should he come, prove that he’s user, etc.? — Daniyar, 45 year old male, Shymkent

Further, participants reported stigma in ancillary services as well. The most commonly mentioned healthcare facilities (other than HIV care and harm reduction services) that participants reporting experiencing stigma in were hospitals, dentists, narcology dispensaries, and facilities that provide tuberculosis care. Stigma in these environments manifested in denial of care and unauthorized disclosure of HIV status:

- The AIDS Center should have a dentist because dentists at regular clinics don’t want to see PWID.— “Ulyana”, 48 year old female, Karaganda

- And a hospital… they hardly admit you to a hospital. They do not refuse directly, they smile and do not want to render services under any circumstances. We have to attract some connections/contacts to be admitted, especially in case of surgery.— Elnara, 50 year old female, Almaty
PWID/LWH were very aware of the double stigma that they may encounter, even when accessing ancillary health services:

- Yes. The same attitude is in narcology dispensaries, i.e. stigma, and double stigma that you are living with HIV and inject drugs – “Martemyan”, 45 year old male, Shymkent

Finally, two participants reported that female PWID/LWH faced stigma when accessing reproductive and maternity health care services. One participant reported that she was placed in a separate room marked with a sign outside the door that indicated she was living with HIV (Table 2, Quote 2). Another participant reported that providers often suggest abortion for pregnant women who are PWID/LWH:

- I know– as far as pregnancy is concerned – they often suggest abortion. However, being a doctor she should explain all risks, pluses and minuses, provide counseling and information for pregnant women. But they always advice abortion for some reason. My wife was told so. Daniyar, 45 year old male, Shymkent

Anticipated Stigma: PWID focus groups revealed significant anticipated stigma around the utilization of harm reduction services and disclosure concerns. The most commonly reported theme around stigma was the concern that participants would be seen accessing HIV services and/or harm reduction services by family, friends, or acquaintances. In policlinics – which provide general primary care services to the community as well as syringe exchange services for PWID – participants often reported being concerned that their status as a PWID would be inadvertently disclosed if they were to be seen in or around these clinics, or if they were seen accessing community-based harm reduction services. They anticipated that this disclosure would lead to instances of enacted stigma, such as gossip:

- Everybody will know, our district is small, my neighbors visit this policlinic, and will then gossip. — “Alla”, 40 year old female, Almaty

- If neighbors see outreach workers, they will start to talk about me. – “Aidana”, 39 year old female in Temirtau

In response to anticipated stigma, PWID/LWH reported avoiding HIV care and harm reduction services, and in particular, avoiding SEPs located within policlinics. This is of particular concern because it discourages harm reduction utilization and HIV testing:

- I sometimes don’t even want to see doctors at the primary care clinic because I am afraid to meet acquaintances there. They may spread rumors about me. — “Rozalina”, 48 year old female in Karaganda

- I wouldn’t go there. I have many acquaintances there. If someone sees me, then rumors will be spread around the city. — “Nikkita”, 37 year old female in Karaganda

- People are reluctant to go to AIDS Center – I know 5 persons whom I can’t drag there by force. They think that if somebody will see them in AIDS Center he/she will think that they have AIDS (are HIV-positive).
It is psychologically difficult for people, who want to be tested, to visit AIDS Center. — Latipa, 34 year old female in Almaty

Participants recounted witnessing service providers within SEPs and primary care clinics disclosing the status of other PLWH. Participants reported that witnessing this leads to the belief that if they were to disclose their status to staff in this facility that their privacy would not be maintained either:

- I had a case in the primary care clinic… Doctors in the clinic made a noise about my friend as if she was leper, they told everybody that she had HIV. A doctor doesn’t even know if I know or not, but starts telling me about her…I’m afraid to go there, because we are afraid of disclosing our status.—”Eva”, 43 year old female, Almaty

**DISCUSSION:**

A substantial amount of literature exists on the effects of HIV stigma on healthcare access and utilization (Ekstrand, Ramakrishna, Bharat, & Heylen, 2013; Feyissa, Abebe, Girma, & Woldie, 2012; Nyblade, Stangl, Weiss, & Ashburn, 2009); however, stigma related to injection drug use and the experience of multiple stigmas among PWID is poorly understood. Such an understanding is critical in Kazakhstan, where HIV is primarily driven by injection drug use. Utilizing a mixed-method approach, we used the Stigma and Discrimination Framework developed by Stangl and colleagues (2010) to explore the manifestations of stigma, their impact on harm reduction and HIV care service utilization within primary care settings. The present study makes several noteworthy contributions to our understanding of stigma among PWID/LWH in the region by highlighting the lived experiences of stigma and by providing a better understanding of the manifestations of multiple stigmas experienced by PWID/LWH. Further, while the People Living HIV Stigma Index (Amanzholov et al., 2016) provided some understanding of HIV stigma from a client perspective, the quantitative arm in this study provides the first assessment of stigma from the perspective of service providers in the region. Moreover, our findings build upon the People living with HIV Stigma Index by identifying actionable drivers and facilitators that future interventions can target for stigma reduction.

Similar to findings reported in the People Living HIV with Stigma Index, PWID/LWH in this study reported fear of gossip by other community members when utilizing HIV or harm reduction services and this fear translates into a lack of utilization of services. Excerpts from our focus group discussions describe instances similar to those reported in the People Living HIV with HIV Stigma Index, in which HIV stigma within healthcare settings resulted in denial of care, unnecessary precautions, and unauthorized disclosure of HIV status. Beyond what was examined by the People Living HIV Stigma Index, our focus group participants reported experiencing stigma related to their status as a PWID and that this additional stigma led to the avoidance of harm reduction and HIV service settings, and the receipt of substandard care. In surveying service providers, we found that a substantial proportion of service providers reported having received training in stigma, having the necessary supplies and protocols to reduce HIV transmission, and the existence of policies to protect patients from stigma and discrimination. Nevertheless, PWID/LWH participants reported frequently
encountering stigma in the service provision environment and over a third of service provision participants reported witnessing other service providers being unwilling to provide care, providing poorer quality of care, and talking badly about PLWH. In addition to HIV care and SEP settings, participants reported experiencing stigma in narcology dispensaries, TB clinics, and places that provide reproductive and maternal health care services.

The integration of data through joint displays provided valuable insights into conflicting perspectives of stigma within the service environment as expressed by providers and clients. The findings from this study highlight a discrepancy between service providers and clients, in which providers may not be aware of the effect that their behaviors have on their client population. Quantitative data from service providers revealed some endorsement of stigmatizing attitudes, behaviors, and negative opinions of PWID/LWH. Qualitative interviews with PWID/LWH clients of HIV and SEP services, however, describe frequent encounters of enacted stigma. Though fear of transmission and avoidance behaviors were not particularly high as reported by service providers, many clients describe situations where service providers take unnecessary precautions by using masks, actively denying care, and segregating clients who were living with HIV and/or PWID from other clients. Furthermore, many of the actions that providers use to stop HIV transmission led to unintended consequences in which clients feel discriminated against, and, as a result avoid preventative services and health facilities. Additionally, quantitative surveys indicated that the majority of service providers are aware of anti-stigma and discrimination guidelines but only less than one third reported that these policies were enforced. Further contextualizing these findings, our qualitative data demonstrate how facility policies may facilitate stigma by inadvertently disclosing their status as a person living with HIV and/or PWID through actions such as segregating clients, discussing a client’s status in front of others, or displaying facility logos during outreach events.

With its focus on actionable drivers and facilitators, we found the Stigma and Discrimination Framework for Program Implementation and Measurement to be a useful framework by which to organize our findings and to identify suitable targets for intervention. Actionable drivers and facilitators are individual and facility level factors which have been shown reduce stigmatizing attitudes and behaviors as a result of interventions (Stangl et al., 2010). Based on this study’s findings, there is a need to address the following drivers and facilitators of stigma in this setting: fear of HIV transmission, a lack of knowledge about the ways in which stigma manifests, a lack of policy enforcement, and a culture where stigmatizing treatment of PWID/LWH clients appears to be an acceptable social behavior. Intervening on these drivers and facilitators will be critical for reducing the multiple stigmas faced by PWID/LWH in Kazakhstan if harm reduction and HIV prevention measures are to be successful.

Given that stigma is a multi-faceted social construct, a multi-pronged approach to stigma reduction is necessary. Further, stigma reduction interventions must address multiple stigma domains (i.e. stigma related to HIV, injection drug use, incarceration, and other marginalized statuses) at multiple levels (i.e. individuals, organizational, policy) in order to effectively address health inequities in populations that face multiple stigmas. Interventions that aim to increase knowledge of what stigma is, how it manifests, and the negative consequences of
stigma are essential for raising awareness (Nyblade et al., 2009; Pulerwitz, Michaelis, Weiss, Brown, & Mahendra, 2010). The finding that stigma towards PWID/LWH appears to be an acceptable social behavior identifies this setting as one that may particularly benefit from interventions that integrate professional role models into existing training structures. The White Coats, Warm Heart (WCWH) intervention (Li, Lin, Guan, & Wu, 2013; Li, Wu, et al., 2013), implemented across 40 county-level hospitals in China, could serve as a propitious model for stigma reduction in Kazakhstan. The WCWH intervention is multilevel stigma reduction intervention that utilizes professional role models to promote a non-stigmatizing healthcare environment in combination with the provision of infection control supplies and education concerning universal precautions. The WCWH intervention utilizes popular opinion leaders to disseminate stigma reduction messages including information concerning universal precautions and occupational safety, equal treatment of all patients, improving the provider-patient relationship, and reducing of HIV-related stigma. In addition to the popular opinion leader component, the WCWH intervention incorporates structural level changes including the provision universal precaution supplies, information packages on the use of universal precautions to prevent HIV transmission, and the development of a Universal Precaution Oversight Committee. Training on universal precautions and the provision of adequate infection control supplies (i.e., gloves, sharp disposal containers, hand washing stations, etc.) helps mitigate transmission driven fear and decreases stigmatizing avoidance behaviors. Moreover, popular opinion leaders serve as change agents within organizational structures by promoting a culture of non-stigmatizing service provision. The reduction in stigmatizing attitudes and behaviors among service providers produced by the WCWH intervention have shown to be sustainable at 12-month follow up.

At the institutional level, it is paramount that policies prohibiting stigma and discrimination are implemented and enforced. The development of policies through a participatory method that involves healthcare workers have proven to be the most effective. Participatory policy development allows participants to explore their personal values and behaviors, while improving their awareness of stigma and discriminatory attitudes and behaviors (Nyblade et al., 2009). Moreover, participatory methods allow for the tailoring of policies to each unique context. Once policies are in place, discrimination consequences must be clearly stated and well known amongst all employees. One way to ensure policy enforcement is to mandate the monitoring of attitudes and behaviors of service providers, and establish benchmarks that facilities can use to monitor their progress. A successful example of this has been implemented by the government of Vietnam, where national hospital regulations include stigma reduction and hospitals are required to conduct regular monitoring to ensure compliance (Nyblade et al., 2009).

**Strengths, Limitations, and Future Directions**

A mixed method approach enabled us to provide contextual evidence for HIV and drug-use related stigma within healthcare facilities from both the patient and provider perspective, and the integration of qualitative and quantitative research strategies capitalizes on complementary strengths and nonoverlapping weaknesses. The sequential approach to mixed methods data collection used in this study allowed us to use stigma findings that emerged from the qualitative interviews among PWID/LWH to inform the selection of
quantitative surveys that measured HIV and drug use-related stigma among healthcare workers (Zhang & Creswell, 2013). Although findings from this study add to the limited body of evidence regarding discrimination and stigma among PWID/LWH populations in Central Asia, this study is not without limitations. The sequential approach used, obtained data in different populations (i.e. qualitative interviews among PWID/LWH and quantitative surveys with providers). As such, service providers were not able to elaborate on their attitudes and behaviors towards PWID/LWH through qualitative methods, and we were unable to quantify manifestations of stigma as reported by clients. Future studies could consider focusing more in-depth on either population to create a deeper understanding of stigma from each perspective.

Furthermore, participants were not selected at random, thereby limiting the external validity of findings. Service providers and administrative staff were selected by senior leadership for their knowledge and expertise, whereas PWID/LWH participants were recruited using flyers and peer-driven snowball sampling. As a result, some degree of selection bias may exist. Additionally, focus group participants were both living with HIV and PWID, which limits our ability to disentangle the separate experiences of these stigmas. However, the mixed methods approach used in this study provides diverse perspectives from patients and service providers to give a comprehensive overview of stigma and discrimination in a region where HIV is primarily attributed to PWID. Furthermore, participants were selected from active AIDS Centers and SEPs in three major regions of Kazakhstan and thus our findings are likely representative of PWID/LWH populations and of SEP service providers within the region.

Another limitation lies in our measurement of stigma towards injection drug users. Specifically, only one quantitative question directly measured stigma towards injection drug use. While the percent of providers who reported they prefer not to provide services to this population was relatively low (just over 16%), it is probable that a higher proportion of providers endorse stigmatizing views and/or engage in discriminatory practices towards PWID that were not captured in our survey. In fact, our qualitative results provided evidence that stigma related to PWID status was frequently encountered by PWID/LWH in harm reduction and HIV care settings. These results call for a need to further investigate experiences and manifestations of stigma specific to injection drug use in the region. There is particularly a need to disentangle the stigma related to HIV from that related to injection drug use and to understand the extent that injection drug use may lead to stigma beyond concerns related to HIV infection.

Finally, the current study emanated from the pre-implementation phase of a larger study designed to test effectiveness and implementation outcomes of a linkage to HIV care intervention for PWID. As such, focus group questions and probes focused on general experiences with, and barriers to, SEP services and HIV care. It was only after qualitative data collection that stigma emerged as a key barrier to SEP and HIV service utilization. It possible that we would have identified an even greater range of stigma experiences and have been able to elicit an even more nuanced understanding of the topic of stigma were a focus group topic. Future research is therefore needed to confirm our findings and to provide a greater understanding of stigma related to injection drug use and HIV in Kazakhstan. There
is a specific need for the examination of how these stigmas may interact with other social statuses such as gender, race, and history of incarceration.

CONCLUSION

Our findings support the recommendation that reducing HIV-related stigma in healthcare settings should remain a top priority in Kazakhstan, and we extend this recommendation to include a need to address stigma related to injection drug use. Measuring the attitudes and behaviors of service providers and identifying points of intervention is the first step in successfully meeting this challenge. Results from this study support and build upon the HIV Stigma Index findings by providing actionable drivers, facilitators, and context for HIV and substance use related stigma reduction interventions to be implemented. This study highlights the urgent need to address stigma in the harm reduction and HIV service settings in Kazakhstan. The actionable drivers and facilitators of stigma within healthcare settings identified in this study include stigmatizing behaviors seen as normative, lack enforcement of anti-discrimination policies, lack of knowledge about the ways in which stigma manifests, and fear of HIV transmission. These findings may be used to guide an actionable model for stigma reduction in the context of harm reduction and HIV care settings in Kazakhstan. Ultimately, for stigma reduction strategies to be effective, multiple interventions will need to be combined in order to address multiple stigmas at the individual, facility, and policy level.

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Appendix A: BRIDGE Focus Group Discussion Guide

1. Introduction by Facilitator

We want to thank you again for taking the time to meet with us today. My name is ____________ and this is ____________. We would like to talk to you about your experiences and engagement with HIV services at trust points and AIDS Centers. Specifically, we would like to discuss your thoughts on barriers facing people who use or inject drugs in their access to receiving HIV services. There are no right or wrong answers. Specifically, we will be asking about services that you feel could be useful for people who use or inject drugs at trust points and AIDS Centers.

The focus group should take an hour and a half. We will be recording the session because we don’t want to miss any of your comments. Because we’re on tape, please be sure to speak up so that we don’t miss your comments. As stated in the
consent form, all responses will be kept confidential. This means that focus group discussions will only be shared with research team members and we will ensure that any information we include in our report does not identify you as the participant. Your name or other identifying information will not be connected to any information you provide during these focus groups. Remember, you don’t have to talk about anything you don’t want to and you may end the participation at any time.

Are there any questions about what I have just explained? Can we get started?

2. Trust Points
   - What is your experience of attending trust points and the services that trust points provide?
   - How do you or other PWID choose which trust point in your city/town to go to for services?

3. What are things trust points could do differently to better meet the needs of PWID in your community?

4. Outreach workers
   - What are your and other PWIDs’ experiences with outreach workers?
   - What could outreach workers do differently to better meet the needs of PWID in your community?

5. HIV/AIDS
   - How is HIV/AIDS perceived among your community of PWID?
   - How do PWID perceive the consequences of getting HIV?
   - What experiences do PWID have with HIV testing?
   - Given a choice, where would PWID prefer to go for HIV testing: AIDS Center, or to a trust point, or to another place? Why?

6. Linkage between trust points and AIDS Centers (and barriers to linkage)
   - In your community, how are HIV-positive people introduced to HIV care at the AIDS Center for the first time?
   - What role do trust points and trust point staff play in referring HIV-positive people to HIV care at the AIDS Center?
   - What are some barriers that PWID experience in getting services at the AIDS Center based on a referral from a trust point?
   - How long does it take PWID from the time they are diagnosed with HIV to be linked to care?

7. Experience at AIDS Centers
   - How do PWID in your community perceive the AIDS Center?
• What is the experience of HIV-positive PWID when they try to access HIV care at the AIDS Center?
• In your community, how well-understood is the concept of viral suppression?
• How easy or difficult is it for PWID to adhere to ARV medication to achieve viral suppression?

8. Barriers to care & community support

• Please describe some of the barriers people who inject drugs in your community may face in visiting trust points, interacting with outreach workers, or visiting the AIDS Center? Are there different barriers for men and women?
• How do PWID support (or not support) each other when it comes to HIV testing and adherence to ART?
• What could the AIDS Center do differently to better meet the needs of HIV+ PWID in your community?
• What is the most difficult thing about being HIV+ in your community?

9. Closing

• Are there any concerns related to HIV that PWID have in your community that we haven’t discussed today? Are there aspects specifically related to women’s experiences as PWID?
• Is there anything else we have not talked about that might be important for us to link PWID to HIV care and treatment?
• Debriefing and Closing

REFERENCES


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<table>
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<tr>
<th>Healthcare Provider Surveys</th>
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<th>N (%)</th>
<th>PWID/LWH Focus Group Stigma Manifestation Excerpts</th>
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<tbody>
<tr>
<td><strong>Training/Knowledge of HIV-related S&amp;D</strong></td>
<td>Yes</td>
<td>No</td>
<td>Not Applicable</td>
<td>Quote 1: I called for emergency services. I swear [the service provider] closed her face with a scarf, I told her: “be careful not to be infected!” I was almost shaking, so what? In a day I brought [my husband] to the hospital and he died right there. —“Eva”, 43 year old female, Almaty</td>
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<tr>
<td><strong>Fear of Transmission</strong></td>
<td>Worry when conducting the following activities:</td>
<td>Worried</td>
<td>Not Worried</td>
<td>Not Applicable</td>
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<tr>
<td><strong>Worry when conducting the following activities:</strong></td>
<td>Took the temperature of a patient living with HIV</td>
<td>(2.50)</td>
<td>48 (60.00)</td>
<td>30 (37.50)</td>
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<tr>
<td><strong>Touched the clothing of a patient living with HIV</strong></td>
<td>6 (7.50)</td>
<td>65 (81.25)</td>
<td>9 (11.25)</td>
<td>Quote 4: The AIDS Center may not provide some services. Staff may say that equipment is broken or the power is off, because they are afraid.— “Ulyana”, 48 year old female, Karaganda</td>
</tr>
<tr>
<td><strong>Dressed the wounds of a patient living with HIV</strong></td>
<td>22 (27.50)</td>
<td>33 (41.25)</td>
<td>25 (31.25)</td>
<td>Quote 5: I do not go anywhere at all [for harm reduction services], their glance is so that…, although I am a strong moral person, but they eat you with this glance, and it becomes even worse. —“Larisa”, 32 year old female, Almaty</td>
</tr>
<tr>
<td><strong>Drew blood from a patient living with HIV</strong></td>
<td>14 (17.50)</td>
<td>31 (38.75)</td>
<td>35 (43.75)</td>
<td>Quote 6: I am uncomfortable with [the AIDS Center] because of the attitude I see from the staff – the way they meet, talk and treat PWID. When I was asked to come to the AIDS Center for the first time, it was shocking to me. When I got there, it seemed as if everyone knew that I was a drug user. The conclusion is that they don’t maintain confidentiality and are biased about PWID to a certain extent.—“Amalya”, 21 year old female, Terniutau</td>
</tr>
<tr>
<td><strong>Stigmatizing Avoidance Behavior</strong></td>
<td>Do you typically use any of the following measure when providing services to a patient living with HIV?</td>
<td>Yes</td>
<td>No</td>
<td>Not Applicable</td>
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<tr>
<td><strong>Avoid physical contact</strong></td>
<td>11 (13.75)</td>
<td>63 (78.80)</td>
<td>6 (7.50)</td>
<td>Quote 8: In the region where I live it is rather complicated… When a nurse in TB dispensary accidentally blabbed about my status – the whole village knew the secret. We try not to visit it - even if I feel bad I never go there. —“Stanimir”, 43 year old male, Shymkent</td>
</tr>
<tr>
<td><strong>Wear double gloves</strong></td>
<td>12 (15.00)</td>
<td>41 (51.20)</td>
<td>27 (33.75)</td>
<td></td>
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<tr>
<td><strong>Wears gloves during all aspects of patient's care</strong></td>
<td>30 (37.50)</td>
<td>21 (26.30)</td>
<td>29 (36.25)</td>
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<td><strong>Use any special measures that you do not use with other patients</strong></td>
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<td>28</td>
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<td><strong>Opinions about People Living With HIV</strong></td>
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<td>HIV is a punishment for bad behavior</td>
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<td>(22.50)</td>
<td></td>
</tr>
<tr>
<td>Most people living with HIV do not care if they infect others</td>
<td>40</td>
<td>40</td>
<td>(50.00)</td>
<td></td>
</tr>
<tr>
<td>People living with HIV should feel ashamed of themselves</td>
<td>9</td>
<td>71</td>
<td>(11.25)</td>
<td></td>
</tr>
<tr>
<td>Most people living with HIV have had many sexual partners</td>
<td>30</td>
<td>50</td>
<td>(37.50)</td>
<td></td>
</tr>
<tr>
<td>People get infected with HIV because they engage in irresponsible behaviors</td>
<td>49</td>
<td>31</td>
<td>(61.25)</td>
<td></td>
</tr>
<tr>
<td>Women living with HIV should be allowed to have babies if they wish</td>
<td>76</td>
<td>4</td>
<td>(95.00)</td>
<td></td>
</tr>
<tr>
<td>Stigma Towards PWID</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>If I had a choice, I would prefer not to provide services to people who inject illegal drugs</td>
<td>13</td>
<td>67</td>
<td>(16.25)</td>
<td></td>
</tr>
</tbody>
</table>
Table 2:
Facilitators of PWID/PLWH stigma as reported by Service Providers and Qualitative Excerpts of Stigma Manifestations as reported by PWID/LWH

<table>
<thead>
<tr>
<th>Healthcare Provider Surveys</th>
<th>N (%)</th>
<th>N (%)</th>
<th>PVID/LWH Focus Group Stigma Manifestation Excerpts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facility Norms Regarding Stigma and Discrimination</td>
<td>At Least Once</td>
<td>Never</td>
<td>Stigmatizing Policies:</td>
</tr>
<tr>
<td>Healthcare workers unwilling to care for a patient living with HIV</td>
<td>25 (32.25)</td>
<td>55 (67.75)</td>
<td>Quote 1: When my husband was dying in a hospice, I was on standby there; he had a stroke. And, in principle, no one had to be aware of his status. He was placed in a separate room, and everybody shied away from this room. And when the nurses came in they saw me kissing him... they told me: “why do you come up to him?! He has AIDS, he’s infectious!” And everybody in this hospice, including cancer patients, dying grandmothers, treated him like a horrible person.— “Valeria”, 50 year old female, Almaty</td>
</tr>
<tr>
<td>Healthcare workers providing poorer quality of care to a patient living with HIV than to other patients</td>
<td>27 (33.75)</td>
<td>53 (66.25)</td>
<td>Quote 2: When I arrived, I did not tell them about it, and then I disclosed it. They turned away all other women in childbirth from the ward and hung an “HIV” sign on the door, and all women were barred from entry to my ward. Imagine my condition! A long corridor, my ward at the end, and I’m there alone.— “Alla”, 40 year old female, Almaty</td>
</tr>
<tr>
<td>Healthcare workers talking badly about people living with or thought to live with HIV</td>
<td>25 (31.75)</td>
<td>55 (38.25)</td>
<td>Quote 3: It should be noted that the AIDS Centers SEP entrance is separate. — “Mikaela”, 34 year old female, Termitau</td>
</tr>
<tr>
<td>Supples and Protocols to Protect against HIV</td>
<td>Agree</td>
<td>Disagree</td>
<td>Need For Policy Enforcement:</td>
</tr>
<tr>
<td>There are adequate supplies in my health facility that reduce my risk of becoming infected with HIV</td>
<td>67 (83.75)</td>
<td>13 (16.25)</td>
<td>Quote 4: Moreover AIDS Center has a car with the inscription “AIDS Center” – well they drive up to my house, my neighbors see and say: what’s that?! I always ask them to leave a car couple of blocks away from my house. — “Boris”, 49 year old male, Almaty</td>
</tr>
<tr>
<td>There are standardized procedure/protocols in my health facility that reduce my risk of becoming infected with HIV</td>
<td>75 (93.75)</td>
<td>5 (6.25)</td>
<td>Quote 5: Anyway, this [SEP] must hire a person who is well aware that HIV status is not dangerous to others, that we have to come and it is not necessary to wear a mask and jump aside and look askance at us, let it be a coordinator who will supervise them and treat us just like all other people. We do not pose any threat to them. — “Viktoriya”, 44 year old female, Almaty</td>
</tr>
<tr>
<td>Stigma and Discrimination Policies</td>
<td>Yes</td>
<td>No/Don’t know</td>
<td>Quote 6: You come to the AIDS center [for syringes] and the outreach worker is absent, it is necessary to wait…. You come and they say – ‘go away from here’… These are not just words, I can prove what I say -I have records… I even visited the Chief Doctor and swore why there was such an attitude towards us. I tell them – ‘you behave so as if you are sick, and I am a doctor.’ Strict control is needed.— “Nazar”, 48 year old male, Shymkent</td>
</tr>
<tr>
<td>My health facility has written guidelines to protect clients/patients living with HIV from discrimination</td>
<td>54 (37.50)</td>
<td>26 (62.50)</td>
<td></td>
</tr>
<tr>
<td>I will get in trouble at work if I discriminate against clients/patients living with HIV</td>
<td>24 (30.00)</td>
<td>56 (70.00)</td>
<td></td>
</tr>
</tbody>
</table>
Tab 15
Study of the possibility of introduction of Kazakhstan NGO-based rapid HIV testing procedures

KO Alibayeva \(^1\)
MK Saparbekov \(^1\)
BS Baiserkin \(^2\)
AT Abishev \(^2\)
GH Tazhibaeva \(^2\)
SZ Kasymbekova \(^2\)

\(^1\)Department of Public Health and Social Sciences, Kazakhstan School of Public Health, Almaty, Republic of Kazakhstan; \(^2\)Organization and Methodical Department, Reference Laboratory, Republican Center on Prevention and Control of AIDS, Almaty, Republic of Kazakhstan

Introduction: New initiatives presented by the World Health Organization (WHO) and the Joint United Nations Program on HIV and AIDS, such as 90-90-90, test and treat, preventive treatment, and best international practices related to the introduction of rapid human immunodeficiency virus (HIV) testing in clinics, and field conditions, including self-testing, predetermined the introduction of NGO-based rapid HIV testing in the Republic of Kazakhstan nongovernmental organizations (NGOs). This work presents the results of a comprehensive study conducted about the possible introduction of NGO-based rapid HIV testing in the country. It should be noted that 32,573 HIV infections have been diagnosed in Kazakhstan (prevalence of 117.7 per 100,000 people) from 1987 to 2018. Most of these new cases are diagnosed among “key” population groups, such as people who use injectable drugs, sex workers, men who have sex with men, those who rely mainly on NGOs, and those who prefer to deal with an organization such as an NGO, which makes it possible to introduce NGO-based rapid HIV testing in Kazakhstan.

Methods: In this work, we used the following rapid HIV tests: Alere DetermineTM HIV ½ Ag/Ab Combo, Hexagon HIV 1+2, Abon HIV ½, HIV 1,2 Han Medtest, and Geenius HIV1/2 Confirmatory.

Results: The study of the rapid tests, including their diagnostic patterns, conducted in Kazakhstan shows that five rapid HIV tests completely meet the WHO’s requirements (sensitivity>99%, specificity>98%). These are Alere DetermineTM HIV ½ Ag/Ab Combo, Hexagon HIV 1+2, Abon HIV ½, HIV 1,2 Han Medtest, and Geenius HIV1/2 Confirmatory. The study of legal and social problems associated with rapid HIV testing in NGOs shows that HIV-related medical examination and counseling carried out in Kazakhstan, including those by rapid methods, are governed by corresponding laws and normative legal documents.

Conclusion: It has been established that there are social barriers that interfere with rapid HIV testing. In view of this, services associated with NGO-based rapid HIV testing shall be rendered with the use of a social and legal protection mechanism for those under examination.

Keywords: rapid HIV testing, NGO, key population groups, HIV infection, Republic of Kazakhstan

Introduction

As of January 1, 2018, 32,573 Human Immunodeficiency Virus (HIV) cases were diagnosed in Kazakhstan, among them, PLHIV (people living with HIV) were 20,841, 117.7 per 100,000 people. The highest PLHIV prevalence were observed in Pavlodar, Karaganda, Kostanay Regions, and in Astana. According to the International Bank for Reconstruction and Development (2015), the HIV epidemic in the countries of Central Asia, including Kazakhstan, is still at its “concentrated”
stage where most of new HIV cases are diagnosed among “key” population groups, particularly among people who use injectable drugs (PUIDs), men who have sex with men (MSM), prisoners, sex workers (SWs), and their clients. If these current trends, such as a lack of changes in the “key” population groups’ behavior and low coverage by preventive programs, are maintained, it is expected that during 2015–2020 new HIV cases will increase by 13% and AIDS-related deaths by 32%. It is also expected that PUIDs and MSM will be 67% of all new HIV cases.1

The studies conducted outside the Republic of Kazakhstan show that among “key” population groups HIV serological status is usually associated with behavioral model of men and women with high risks, sexual relations, and drug addiction. For example, according to S. A. Strathdee et al (2010, 2011), A. Krusi et al (2010), there are many behavioral factors that give rise to HIV among PUIDs, including a lack of access to sterile needles, syringes, a fear of becoming subject to discrimination, arrest, imprisonment, the presence of barriers preventing them from receiving testing, HIV, and drug addiction treatment services.2–4 This opinion is generally shared by other authors.5–7 The study by N. EL-Bassel et al (2013) conducted in Almaty, Kazakhstan, among 728 injecting drug users and their intimate partners convincingly shows that the HIV prevalence among women and men who are PUIDs is 28%, which is considerably higher than the HIV prevalence according to the official report on integrated HIV behavioral surveillance.8 The authors note that only 10% of the participants have ever used a needle and syringe exchange program, and 25.3% have never been tested for HIV. The same situation is observed among SWs. For example, according to the US President’s Emergency Plan for AIDS Relief (PEPFAR) 2016 for Central Asia, researchers (2013–2014) used the TrAC methods and showed that the HIV prevalence among SWs who had reported about their injection drug use experience in these three Central Asian countries (Kazakhstan, Kyrgyzstan, and Tajikistan) would exceed similar values among those SWs who had not practiced this type of high-risk behavior by 20 times.9 The PEPFAR experts note that, regardless of a high demand for HIV testing and counseling services, a considerable number of SWs are not regularly tested for HIV in the Central Asian regions under consideration.

MSM are one of the most important “key” population groups that is strongly affected by the HIV epidemic in Kazakhstan. Let us note that the HIV prevalence in this population category is of contradictory nature. If the official figures of Kazakhstan show that the HIV prevalence among the MSM population is 3.16%, then the work by M. Berry et al (2012) indicates that only in Almaty, Kazakhstan, the HIV prevalence reaches 20.2%.10 This wide variations information about HIV prevalence and the MSM population is most probably connected with low-quality studies, a lack of representativeness in the selection of MSM as well as stigma and discrimination existing in this population group.

Therefore, from the epidemiological point of view, there are convincing reasons why HIV/AIDS control programs to be implemented in Kazakhstan shall be particularly focused on “key” population groups.

Currently is a better word, the Joint United Nations Programme on HIV/AIDS (UNAIDS) adopted a new “90-90-90” strategy for counteraction with the spread of HIV infection.11 By 2020, according to this strategy aimed at ending the AIDS epidemic in the world, 90% of all PLHIV will know their HIV status, 90% of all people with diagnosed HIV infection will receive sustained antiretroviral therapy, 90% of all people receiving antiretroviral therapy will have viral suppression. In this regard, the Republic of Kazakhstan is taking measures to improve and extend access to NGO-based rapid HIV testing and early HIV treatment among “key” population groups.

The objective of this study is to identify the possibility of introduction of NGO-based rapid HIV testing with whole blood in Kazakhstan. For this purpose, Kazakhstan’s Medical University “KSPH”, together with specialists the Republican Center on Prevention and Control of AIDS, the Kazakhstan Union of PLHIV NGO in partnership with international organizations have initiated a comprehensive study of the possibility of introduction of NGO-based rapid testing. In addition to the search of feasibility and applicability of NGO-based rapid testing methods in East Kazakhstan and Pavlodar Regions, they have organized such activities as rapid testing for PLHIV and practical training for nongovernmental organization (NGOs)’ employees. Patients with positive HIV test results are brought to the Territorial Center for Prevention and Control of AIDS in order to establish their final HIV status and receive early treatment.

Materials and methods

Materials

The following information has been used in order to analyze the facts of feasibility and applicability of NGO-based rapid HIV testing procedures:
(a) Best practices from different countries, world literature describing the introduction of rapid HIV testing methods into national health care systems;
(b) Results of our validation assessment of the quality of the five rapid tests registered in Kazakhstan and made by different manufacturing companies;
(c) Analytical study of the applicable legislative and normative legal documents of the Republic of Kazakhstan that govern HIV testing procedures;
(d) Materials of the sociological studies aimed at assessing the possible barriers interfering with Kazakhstan NGO-based rapid HIV testing.
(e) The laboratory part of this study was carried out during 2015–2017 with advisory, technical and financial support from the Center for Disease Control and Prevention (CDC).

Methods
Assessing the quality parameters of rapid tests
This fragment of the study was carried out within the premises of the reference laboratory of the Republican Center for Prevention and Control of AIDS.

All rapid HIV test manufacturers registered in Kazakhstan were requested to participate in this study. Only five companies agreed to take part. We validated the following rapid HIV tests:

1. Alere Determine™ HIV ½ Ag/Ab Combo;
2. Hexagon HIV 1+2;
3. Abon HIV ½;
4. HIV 1,2 Han Medtest;
5. Geenius HIV1/2 Confirmatory.

The study used two series of each test.

Two panels were created: 1) a panel of native serum samples that included 300 HIV-positive and 300 negative serum or plasma samples; and 2) a panel of titrated serum or plasma samples prepared by 4-time dilutions of 10 HIV-positive serum samples.

The samples of both panels were tested by two IFA tests:

(a) Genscreen Ultra HIV Ag-Ab (Bio-Rad, France) – is a fourth-generation enzyme immunoassay based on the principle of the sandwich technique for the detection of HIV antigen and of the various antibodies associated with HIV-1 and/or HIV-2 virus in human serum or plasma.

(b) Murex HIV Ag/Ab (Diasorin, Italy) – is an enzyme immunoassay for the simultaneous qualitative detection of HIV p24 antigen and antibodies to HIV type 1 (HIV-1 group O) and HIV type 2 (HIV-2) in human serum or plasma.

The tests were carried out in parallel. The samples not reactive in both IFA tests were considered to be negative. All ones reactive according to the results of both IFA tests were confirmed by the New Lablot immunoblot (Bio-Rad, France). The samples reactive in both IFA tests and the immunoblot were considered to be positive. Each sample of the panels was tested with the use of at least two different series of each rapid test system under study in order to assess their variability.

Data analysis
When assessing the quality of the rapid tests, we used the methods specified by the WHO for similar studies.12 The sensitivity, specificity, predictive value of the positive and negative results of each rapid test were calculated on the basis of comparisons with the results of the confirming test with the use of the 2×2 table and retrospective data on the HIV prevalence among the main population groups of the Republic of Kazakhstan. Accurate 95% confidence intervals for binomial relations were calculated on the basis of Fisher’s F-distribution at the relation tending to 1.0. The variability of the testing results was considered as a relation of the quantity of samples with ambiguous interpretation of the total number of samples. In order to calculate the sensitivity and specificity of the test, we used only those samples that were identified as positive or negative when using the test considered to be “gold standard” (IFA-IFA-immunoblot). In order to assess the quality of the rapid tests under study, we used the criteria proposed by the WHO: clinical sensitivity – >99%; clinical specificity – >98%; variability of results from operator to operator – ≤5%; variability of results from series to series – ≤2%; invalid results – ≤1%.

Analyzing the legislative and regulatory acts of the Republic of Kazakhstan
In light of the forthcoming introduction of NGO-based rapid HIV testing procedures, we analyzed the following main legislative normative legal documents:

4. Order No. 508 dated June 23, 2015, of the Ministry of Health of the Republic of Kazakhstan “On the Approval of the Rules of Compulsory Confidential Medical Examination for HIV as per Clinical Indications”.

Sociological studies
The field studies of the barriers interfering with the introduction of NGO-based rapid HIV testing were conducted in the following seven regional centers of Kazakhstan: Pavlodar, Kostanay, Ust-Kamenogorsk, Temirtau, Shymkent, Almaty. The following NGOs were involved in the sociological studies: 1) “Ty ne odin”, “Gerlita” (Pavlodar), “Kuat”, “Answer” (Ust-Kamenogorsk), “Kuat” (Shymkent), “Shapagat” (Karaganda), “Pomotsch” (Kostanay).

The following assessment instruments were developed in order to collect information as per the WHO’s methods. 13

1) Questionnaires for patients of the AIDS Center; the PLHIV; 2) questionnaires for clients of the HIV prevention program, i.e. PUIDs, SWs, MSM visiting “drop-in centers”, “friendly rooms”; 3) questionnaires for activists, NGOs’ employees; 4) questionnaires for interviewing experts, specialists of the AIDS Centers, NGOs; 5) informed consent forms for those participating in the study.

The following people took part in the study: 141 clients of the HIV/AIDS prevention program, including 12 patients of the AIDS centers (PLHIV); 32 experts, specialists of the AIDS centers, NGOs; two focus groups of clients of the HIV/AIDS prevention program, of 12–13 people each, were among the respondents. In total, 185 people were interviewed.

In our studies we classified the barriers interfering with rapid HIV testing as follows:
1. Individual (gender, age, marital status, drug use and other high-risk practices, educational level, salary, self-stigma).
2. Social (stigma, discrimination from the public)
3. Structural and system-based (laws, restriction on rights for PUIDs, SWs, MSM, violations of the legal framework, health care systems).

When analyzing the results of the sociological studies, we used the following methods and statistical techniques:
1. Summary analysis of questionnaires and results from the focus groups:
   - statistical processing of questionnaires (coding and analysis of answers). The respondents were asked to define the extent of their consent to some statements. The answers to the questions were selected from a 5-point ordinal scale where 5 – respondents completely agree with this statement, 1 – completely disagree. An average value of points of all the answers as to a certain statement was used as an overall and ranking estimate of the answers. When selecting a characteristic of average level, Mode was calculated;
   - Content analysis of interviews and results from the focus group;
2. Grouping and description of obtained data (comparison of answers given by patients of the AIDS Centers and PLHIV, employees, and activists of NGOs, clients of HIV/AIDS prevention programs, experts – a triangulation method).
3. Interpretation, discussion of obtained results, and materials with all the interested parties were carried out during our visits to every region under study.
4. Conclusions, recommendations regarding necessary improvements or changes.

Results
Results of the validation study of the rapid tests
The beginning of our studies on the introduction of rapid HIV testing in Kazakhstan was dedicated to the search of
reliable rapid tests and identification of their quality parameters. It has been established that the country officially has 10 rapid HIV tests; however, they are used in practice only as preliminary tests and are regularly duplicated by traditional IFA diagnostics. The main results of our validation study of the rapid tests are presented in Table 1.

All the rapid tests under study (Alere Determine™ HIV ½ Ag/Ab Combo; Hexagon HIV 1+2; Abon HIV ½; HIV 1,2 Han Medtest; Geenius HIV1/2 Confirmatory) on the panel of the native blood serum samples correspond to the WHO’s recommendations as to such quality parameters as sensitivity and specificity (sensitivity>99%, specificity>98%). It should be noted that the first series of the 1,2 Han Medtest HIV rapid test made in Kazakhstan show very high sensitivity and specificity values (100% and 100%). However, the second series of the same test was characterized by low specificity (96%), less than permitted by the WHO. However, it is demonstrated that the local manufacturer can create diagnostic test systems of modern level but, at the same time, has to make efforts aimed at standardizing a production process. Therefore, such rapid tests as Alere Determine™ HIV- ½ Ag/Ab Combo, Hexagon HIV 1+2 и Abon HIV ½ that are used to detect HIV infection can be currently used in Kazakhstan on an equal basis with such traditional HIV diagnosis method as IFA.

Results of the study of the legislative and regulatory acts of the Republic of Kazakhstan

We studied the legal and social problems associated with the forthcoming introduction of Kazakhstan NGO-based rapid HIV testing procedures.

Based on the analytical study of the legislative and regulatory documents of Kazakhstan, orders of the Ministry of Health of the RoK, we established that medical HIV testing conditions in Kazakhstan are governed by authorized state bodies, i.e. the AIDS Center. At the same time, according to Law No. 202-V dated May 16, 2014, of the Republic of Kazakhstan “On Permits and Notices”, private and nonprofit organizations are allowed to carry out HIV testing procedures. According to this Law of the Republic of Kazakhstan, any legal entity or natural person, including NGOs, having a corresponding license is entitled to carry out testing by any methods as this Law stipulates no restrictions on diagnostic methods and materials.

Thus, all rapid tests, both blood and saliva ones, can be used in NGOs’ activities if there are corresponding licenses. In our opinion, a way out of this situation is to obtain licenses for NGO-based rapid HIV testing and related medical activities.

Results of the sociological studies

The main objective of these sociological studies was to identify possible individual, social, and structural barriers interfering with the introduction of NGO-based rapid HIV testing procedures in the country. Within this study, we classified the questioning and interviewing results according to the following two categories: 1) clients of HIV/AIDS prevention programs, patients of AIDS centers (141 respondents); 2) experts, employees of AIDS centers, NGOs (32 respondents).

The summary survey results in case of clients of HIV/AIDS prevention programs – PLHIV (in total, 141 people interviewed) are presented in Tables 2 and 3.

Table 1 Main quality parameters of the approved tests and the commercial value of the tests presented in Kazakhstan

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Alere Determine™ HIV ½ Ag/Ab Combo</th>
<th>Hexagon HIV 1+2</th>
<th>Abon HIV ½/0 Tri-line Human Immunodeficiency Virus Rapid Test Devise</th>
<th>HIV 1,2 Han Medtest</th>
<th>Geenius HIV1/2 Confirmatory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sensitivity, %</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sensitivity of series 1</td>
<td>100</td>
<td>99.67</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Sensitivity of series 2</td>
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<td>100</td>
<td></td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Variation index</td>
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<td>1.33</td>
<td></td>
<td>0</td>
<td>0</td>
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<tr>
<td>Specificity, %</td>
<td></td>
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<td>99.67</td>
<td>100</td>
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<tr>
<td>Specificity of series 2</td>
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<tr>
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<td>1/256</td>
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<td>1/256</td>
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<tr>
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<td>1/64</td>
<td></td>
<td>1/256</td>
<td>1/64</td>
</tr>
<tr>
<td>Variation index 2</td>
<td>–</td>
<td>4 times</td>
<td></td>
<td>16 times</td>
<td>4 times</td>
</tr>
</tbody>
</table>

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Table 2 shows that the main barrier preventing people from being tested for HIV is: “fear that everyone will know their diagnosis”, an average point amounted to 4.10 (mode) as per the 5-point scale. The second place is taken by “fears in the society”, an average point of 3.96 (mode-5). Then, “fear of losing their job”, a point of 3.63 (mode-5). Further, “people do not think that they can catch HIV, therefore, are not tested”, an average point of 3.46 (mode-5). Such statement as “improper location of centers where it is possible to have HIV tests” is not statistically significant, 2.04 (mode-1).

In the course of the assessment of the study results, we studied the following question put forward to the respondents: “how are HIV/AIDS prevention programs implemented in NGOs for “key” population groups (PUIDs, SWs, MSM)?”

Table 3 presents the summary results obtained from questioning experts, employees of NGOs. In total, 32 people were interviewed.

Table 3 shows that an average point of the effectiveness of implementation of prevention programs among “key” population groups (PUIDs, SWs, MSM) amounts to 3.50 (mode-3). The effectiveness of the program that informs about the necessity of having a rapid HIV test for PUIDs, SWs amounts on average to 3.46 (mode-4). According to the respondents, the programs that inform about the necessity of being tested for HIV in case of MSM are the least effective – a point of 2.58 (mode-3). The questionnaire survey shows that stigma and discrimination are serious barriers preventing NGOs from carrying out rapid HIV testing (an average point of 3.77).

As a result of the conducted sociological study, we identified the most significant barriers that interfere with NGO-based rapid HIV testing procedures and are of individual, social, structural, and systematic nature:

- Marital status, drug use and other high-risk practices, educational level, and salary;
• Stigma and discrimination from the public and “self-stigmatization” of PLHIV;
• “misunderstanding” of one’s own HIV infection;
• Poor communication between health/social workers and patients;
• Shortage of state funds for HIV/AIDS prevention programs;
• Unstable monetary support for NGOs.

For the purpose of introducing Kazakhstan NGO-based rapid HIV testing, we recommend the following:

1. NGOs that have financial and technical resources shall obtain licenses for rapid HIV testing and related activities.
2. Making amendments to regulatory documents: NGOs’ articles of incorporation – for the purpose of governing organizations’ activities; to Order No. 115 dated February 28, 2013, of the MoH of the RoK – making amendments to the Regulations on organization of Drop-In Centers’ activities in the context of rapid HIV testing; to the existing orders of the Ministry of Health of the RoK – for the purpose of governing health and sanitary rules and norms related to NGOs’ premises, etc.
3. Developing an algorithm of rapid HIV testing for NGOs’ employees.
4. Training NGOs’ employees to carry out high-quality rapid HIV testing.
5. Training health and social workers in order to carry out high-quality rapid HIV testing and counseling before and after testing.

Discussion

The results of this conducted study supported by the epidemiological data on the HIV infection situation and the analysis of the WHO’s latest program documents confirm the necessity of introducing NGO-based rapid HIV testing in Kazakhstan in order to resolve problems related to the population’s access to services. In our opinion, one of the starting points on which the effectiveness of the country’s HIV epidemic counteraction system depends is to reach the first goal of the UNAIDS strategy “90% of all PLHIV will know their HIV status”. In this regard, the WHO’s 2015 initiative “Test and Treat” (providing antiretroviral therapy to all PLHIV, irrespective of the number of CD4 cells) takes on particular importance. Unfortunately, our country is witnessing serious and critical problems in the field of rendering of HIV care and support services. This is shown by the information from the Republican Center for Prevention and Control of AIDS: 1) about 30% of PLHIV do not know their status; 2) the coverage of “key” population groups by prevention programs remains to be low (for example, only 38.6% of PUIDs were covered by prevention programs in 2015); the coverage of PLHIV by antiretroviral therapy is also low (only 11% of 111,000 PLHIV are involved in treatment).

In recent years, it has been convincingly established that HIV-positive patients receiving antiretroviral therapy become less infectious, the probability of their sexual HIV transmission risk decreases. The modern HIV/AIDS control strategy is also based on the wide use of antiretroviral drugs for medical and preventive purposes: “Prevention Treatment”. In the Republic of Kazakhstan, in order to ensure the second component of the UNAIDS 90-90-90 strategy, they revise clinical protocols according to the WHO’s recommendations, increase purchases of antiretroviral drugs by using the state’s and international foundations’ financial resources.

The literature analysis shows that many states currently use in their health care practices low-cost rapid tests that allow medical workers to carry out testing at the level of clinics, communities, and under field conditions. For example, according to J. Wilton (2015), L. Broekaert, and L. Challocombe (2015), rapid testing with the use of blood and gingival tests is the first and most important step in the treatment of HIV-infected patients. Based on the representative materials of Canada and using the literature review method, the authors presented a wide range of evidence in favor of the advantages of rapid HIV testing. The WHO’s recommendations also indicate the high effectiveness and quality of rapid tests. All these things are particularly important for this country in the context of introduction of NGO-based rapid HIV testing.

The results of the conducted validation study show that it is impossible to develop a national algorithm of HIV diagnosis without the study of such important diagnostic characteristics as sensitivity and specificity through the example of Kazakhstan blood serum samples.

Let us note one more important point: when selecting rapid tests, except for the study of documents related to their safety, quality, and effectiveness, made by a manufacturing company, it is necessary to study on the panels of native blood serum samples that include Kazakhstan HIV-positive and negative samples and diagnostic characteristics of this
rapid system. It is desirable to carry out this procedure in independent laboratories.

An important moment of the studies was to identify the barriers associated with the forthcoming introduction of NGO-based rapid HIV testing. Here, we consider that the promising ideology of our studies aimed at assessing the barriers interfering with the introduction of NGO-based rapid HIV testing in the country is to create a well-informed and permanent forum in order to inform, hold political debates and reform the legislation for a deeper and better understanding of the HIV epidemic and related matters, with participation of all political trends, including NGOs. In our opinion, a good example for the Republic of Kazakhstan is a report by the Global Commission on HIV and the Law and other documents from international organizations that contain data and analyses of public health care spheres, human rights and laws, and also recommendations to legislators, high-ranking politicians, civil society, partners and representatives of the private sector who take part in the development of HIV/AIDS control measures.20,21

Main restrictions during the conducted study
The study is based on the results of the field studies in seven regional cities of Kazakhstan. With extrapolation for the whole country, it is necessary to consider that the administrative territories of the Republic of Kazakhstan are different in relation to their HIV/AIDS situation and socioeconomic development.

This study was mainly of qualitative nature.

In view of limited resources, this study does not include people who refuse to be tested for HIV. Besides, MSM and SWs were not interviewed consistently.

When developing the idea, program strategy and design of this work, we were guided by the scientific research methods laid out in Elizabet DePoy and Laura N. Gitlin.22

The statistical analysis of the results of this study was carried out with the use of traditional biostatistics methods and the SPSS program (Statistical Package for Social Science).23

Conclusion
The outcome of the conducted studies is to create a database about the possibility of introduction of NGO-based rapid HIV testing in the Republic of Kazakhstan. We obtained the diagnostic characteristics of the five rapid tests that completely meet the WHO’s requirements and can be used in the conditions of the Republic of Kazakhstan for NGO-based rapid HIV testing procedures. It has been established that the country’s services system associated with rapid HIV testing shall be organized so that those under examination are provided with a reliable and affordable socio-legal protection mechanism. At the same time, it is recommended to develop a national plan aimed at decreasing stigma and discrimination and designed to organize purposeful activities with the population, medical community, and NGOs.

Ethical approval
This study is approved by the Local Ethics Commission of Kazakhstan Medical University “Higher School of Public Health” (Protocol No. IRB-A086 dated September 29, 2017).

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Disclosure
The authors declare that they have no conflicts of interest regarding this paper.

References
Tab 16
Gender-Based Violence Among HIV-Positive Women in Kazakhstan: Prevalence, Types, and Associated Risk and Protective Factors
Tina Jiwatram-Negr6n, Nabila El-Bassel, Sholpan Primbetova, more... Show all authors
First Published December 10, 2017 | Research Article | Find in PubMed | https://doi.org/10.1177/1077801217741218

Abstract
This article examines the prevalence and associated multilevel risk and protective factors of intimate and nonintimate partner violence among a sample of 249 HIV-positive women in Kazakhstan. We found high prevalence of both lifetime intimate partner violence (52%) and nonintimate partner violence (30%). Together, nearly 60% experienced at least one incident of violence by either an intimate or nonintimate partner (gender-based violence [GBV]). In the multivariate analyses, we found associations between several individual, interpersonal, and socio-structural risk factors and GBV. Findings provide direction for practice, policy, and future research to address the intersection of GBV and HIV in Kazakhstan.

Keywords
gender-based violence, intimate partner violence, HIV, Kazakhstan

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Tab 17
HEALTH

HIV criminalization is happening in 72 countries

10 JUN 2019
HIV criminalization continues: a global review has found that HIV-related arrests, investigations, prosecutions and convictions have ever occurred in at least 72 countries, with recent cases occurring in 49 countries, including 14 in which the law appeared to be applied for the first time.

The HIV Justice Network’s review concerns cases in which either the criminal or similar law is applied to people living with HIV based on HIV-positive status. Either via HIV-specific criminal statutes (29 countries), general criminal or similar laws (37 countries), or both (6 countries). Such laws typically criminalize non-disclosure of HIV status to a sexual partner, potential or perceived exposure to HIV, or transmission of HIV.

HIV criminalization ‘is a pervasive illustration of how state-sponsored stigma and discrimination works against a marginalized group of people with immutable characteristics,’ says HIV Justice Network.

‘As well as being a human rights issue of global concern, HIV criminalisation is a barrier to universal access to HIV prevention, testing, treatment and care.’

Where is it happening?

Between October 2015 and December 2018, at least 913 people living with HIV were arrested, prosecuted, convicted or acquitted in 49 countries. The largest numbers of cases were reported in the Russian Federation (at least 314 cases), Belarus (249), United States (158), Ukraine (29), Canada (27), Zimbabwe (16), Czech Republic (15), United Kingdom (13), France (12) and Taiwan (11).

To estimate where the criminal law appears to be disproportionately applied, the researchers analysed the number of known recent cases according to the estimated number of diagnosed people living with HIV in a country. They identified 15 criminalization hotspots: countries in which the number of cases was equal to or greater than 0.5 in 10,000 per capita of diagnosed individuals.

- Belarus (139 in 10,000)
- Czech Republic (55 in 10,000)
- New Zealand (10 in 10,000)
- Canada (4 in 10,000)
- Sweden (4 in 10,000)
- Russian Federation (3 in 10,000)
- Taiwan (3 in 10,000)
- Ukraine (2 in 10,000)
- Australia (2 in 10,000)
- Switzerland (2 in 10,000)
- England and Wales (1 in 10,000)
- Kazakhstan (1 in 10,000)
- United States (1 in 10,000)
- France (0.8 in 10,000)
- Italy (0.5 in 10,000)

Their analysis suggests that recent HIV criminalization cases do not reflect the demographics of local epidemics, with the likelihood of prosecution exacerbated by discrimination against marginalized populations on the basis of drug use, gender, gender identity, immigration status, sexual and/or gender orientation.
Cases in the United States also appear to disproportionately impact people already in the purview of the criminal justice system, such as prisoners, and people living in poverty, including homeless people, with a high number of cases related to ‘HIV exposure’ via biting or spitting during arrest or whilst incarcerated.

**Women with HIV**

Recent reports of increased numbers of cases in sub-Saharan Africa and in Eastern Europe and Central Asia illustrate what advocates have long feared: that women are more likely to be prosecuted (and less likely to have adequate legal representation), since they are often the first in a relationship to know their status as a result of routine HIV testing during pregnancy, and are less likely to be able to safely disclose their HIV-positive status to their partner due to gendered power inequalities. Women with HIV also face the possibility of being prosecuted for passing HIV on to their child during pregnancy, birth or breastfeeding.

In addition, migrants from high HIV prevalence regions (such as sub-Saharan Africa and eastern Europe) appear to be disproportionately prosecuted in Canada, northern and western Europe and Australasia, and usually have limited access to adequate legal representation.

Non-citizens are also likely to be deported to their country of origin after serving their sentence even if they have family ties in their adopted country.

HIV-specific laws continue to exist in at least 75 countries, including many countries in sub-Saharan Africa (29 countries) and eastern Europe and Central Asia (18).

**Advocacy success**

Nonetheless, during the period covered by the report, promising developments in case law, law reform and policy have occurred, most often as a direct result of advocacy from individuals and organizations working to end the inappropriate use of the criminal law to regulate and punish people living with HIV.

HIV-specific laws have been repealed in Victoria, Australia and in the Democratic Republic of Congo. The latter decision followed eight years of effective civil society lobbying and nurturing of supportive parliamentarians.

Laws have been modernised in seven jurisdictions. For example, Belarus’ law previously made exposure of HIV a crime, regardless of disclosure of HIV status, condom use or whether the sexual partner wanted the prosecution to take place. As a result of advocacy by the community organisation People PLUS, the government announced in December 2018 that a person with HIV will no longer be held criminally liable for HIV exposure or transmission if they disclose their HIV-positive status and their partner consents.

The US state of Colorado used to hand out longer sentences to individuals convicted of sex work solicitation of a sex work or rape, if that person had been diagnosed with HIV at the time of the offence.

Following several years of researching, consulting, organising, lobbying and negotiating by a coalition of campaigners, these laws were changed in 2016. The sex work provisions were removed, while the tougher sentences for HIV-positive individuals convicted of rape were somewhat lessened.

**More success**

Other jurisdictions modernising their laws in recent years are Switzerland, Norway, California, Michigan and North Carolina.

Several proposed laws have been withdrawn. In Malawi, a proposed law was initially welcomed by feminists, but perceptions of the law’s impact changed after consultations between legal activists and grassroots networks of women living with HIV, examining the legislation in detail. As it became clear to local women how the vague provisions on ‘wilful transmission’ could play out in their lives, they
the vague provisions on "transmission" could play out in their lives, they
decided to take up advocacy against it and the parliament withdrew that part of
the law.

International activists facilitated the development of Mexican network of 44 civil
society organisations (La Red Mexicana), which has had several successes,
including the withdrawal of proposed laws in three Mexican states and the
country's supreme court declaring a law in Veracruz to be unconstitutional. A
proposed law has also been withdrawn in Brazil and a Kenyan statute ruled to be
unconstitutional.

In addition, precedent-setting cases in Finland, Germany, Greece, Italy, Sweden
and Morocco have the potential to limit the overly broad application of the law
through the recognition of up-to-date HIV-related science on the real risks of
transmission.

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Roger Pebody is the managing editor of NAM – aidsmap.
Kazakh gay-rights activist fined over controversial photoshoot

By RFE/RL's Kazakh Service

ALMATY, Kazakhstan -- A gay rights and women's rights activist in Kazakhstan has been fined for taking part in a provocative photoshoot that she says was aimed at raising awareness about topics subject in Kazakhstan — homosexuality.

A court in Almaty ruled on August 21 that activist Zhanar Sekertebayeva was guilty of incitement charges in connection with the controversial photoshoot. She was ordered to pay a fine of 12,000 Kazakhstani tenge, or about $35.

Sekertebayeva, a member of the Kazakhstan-based gay rights and women's rights group Generiki, took part in the August 7 photoshoot on the streets of Almaty — holding up a drawing of a woman interstincting with a group of traditional nomadic houses known as yurts.

Amnesty International had urged Kazakhstan authorities on August 15 to "immediately stop proceedings" against Sekertebayeva.

Michael McGillicuddy, an Amnesty international researcher in Eastern Europe and Central Asia, said the case against Sekertebayeva was "a perfect illustration of how lacking in appeal is the protection of human rights, particularly of any kinds which they do not exist." Sekertebayeva was detained on August 15, shortly before she was due to make a presentation in Almaty about her research on HIV and health issues that impact lesbians, bisexuals, and transgender women in Kazakhstan.

Link to original story on RFE/RL website