

KAZAKHSTAN INTERNATIONAL BUREAU
FOR HUMAN RIGHTS AND RULE OF LAW



MONITORING FREEDOM OF ASSEMBLY
IN KAZAKHSTAN:

JUNE-DECEMBER 2011 INTERIM REPORT

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JANUARY 2012

From the author

This report was produced by the Kazakhstan International Bureau for Human Rights and Rule of Law (hereinafter the Bureau). The Bureau has been monitoring Freedom of Assembly in Kazakhstan since 2010, to record actual practices by law enforcement authorities and citizens' ability to realize their right to freedom of assembly.

This report includes the results of monitoring assemblies in seven cities of Kazakhstan: Aktau, Almaty, Astana, Karaganda, Oral, Pavlodar, and Shymkent. Monitoring was conducted by staff of the Bureau from 1 June through 31 December 2011, using standardized observation cards to monitor and report. Sergey Duvanov analyzed the results and compiled this report. Andrey Grishin served as Project Coordinator.

The Kazakhstan International Bureau for Human Rights and Rule of Law wishes to extend special gratitude to the National Democratic Institute, which supported this project with funding from the National Endowment for Democracy. The views or opinions expressed herein are the sole responsibility of the author and do not necessarily reflect those of the National Democratic Institute. The Friedrich Ebert Foundation provided financial support for publishing this report in Russian, Kazakh and English.

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I. Executive Summary

The Kazakhstan International Bureau for Human Rights and Rule of Law (the Bureau) monitored the status of the Freedom of Assembly in Kazakhstan from 1 June through 31 December 2011. Staff members of the Bureau monitored peaceful assemblies in seven cities of Kazakhstan: Almaty, Astana, Aktau, Karaganda, Oral, Pavlodar, and Shymkent.

The Bureau's research confirms that despite severe restrictions on Freedom of Assembly, civic engagement is growing in Kazakhstan. A total of 102 public assemblies were held during seven months of 2011, a significant increase from 2010, when 64 assemblies were held.

A notable change that occurred in 2011 was the emergence of ordinary citizens and diverse social groups as the leading organizers of public assemblies. The great majority of assemblies (78 percent) were devoted to the socio-economic problems of ordinary people, including the demonstrations by oil workers. People who previously had not been politically active, joined public protests in 2011.

Social tension in the country is rising, as indicated by protests against employers and State authorities. Monitors observed 26 meetings in Aktau, related to the strike by oil workers in Mangistau region. The strike accounted for more than 25 percent of all assemblies held. A total of 12 assemblies were held in solidarity with striking oil workers and in memory of those killed in confrontations with police. These assemblies were held in all cities except Shymkent.

The Internet is becoming a tool for strengthening civic engagement. A spontaneous assembly in Almaty, dedicated to the memory of victims in Zhanaozen, was the first in which dissatisfaction moved from virtual forums to city squares.

Authorities permitted only nine assemblies, eight of which were organized by government or pro-government organizations. Ninety-one percent (91%) of assemblies were held without permission, in violation of applicable laws. The increased share of *unauthorized* assemblies in 2011, and their growing frequency, indicate that more and more people are willing to defy the law to make their voices heard.

A heavy police presence was observed at all forms of public protest during 2011, as State authorities' monitoring of all activities by civil society and the political opposition continued and even intensified. Nearly all public assemblies concerning socio-political issues took place in the presence of a police squad, with five to 15 police officers, in uniformed or civilian clothes. In some cases, monitors observed a bus full of policemen hidden nearby. In Almaty, for every person who attended a protest, there was on average 0.8 police; in Astana, the ratio was 0.6 police per participant; in Shymkent, 0.7; and in Pavlodar, 0.2. The average ratio for all Kazakhstan was 0.35, which is approximately one police officer for every three protesters.

Police presence increased dramatically in Western Kazakhstan after violence broke out in Zhanaozen on 16 December. Before then, Aktau had an average of one police for every ten protestors. After 16 December, the average changed to 1.5 police for every protestor in Aktau. In Oral, the average is 3.5 police to every protestor.

While police presence has become an integral part of all peaceful assemblies, police interference with assemblies declined in 2011, compared to 2010. Police interfered with only five percent of assemblies in 2011, by preventing the assemblies from being held, and/or by detaining participants. The incidence of protesters being fined or arrested also declined significantly in 2011, compared to 2010.

Kazakhstani authorities continue to violate the International Covenant on Civil and Political Rights, as well as other international legal instruments that the Government of Kazakhstan has agreed to, by denying authorization for peaceful public assemblies. In Kazakhstan, both the Law and decisions made by local authorities to designate sites for holding peaceful assemblies violate international human rights agreements.

In practice, however, both the public and the authorities are ignoring the law on peaceful assembly. The police and prosecutors are ignoring the fact that 91 percent of all assemblies are not authorized; 95 percent of the time, prosecutors are ignoring their obligation to warn protestors. Authorities may have adopted a more liberal attitude toward unauthorized assemblies to avoid creating problems. However, law enforcement continues and even intensifies its monitoring of all activity by civil society and the political opposition. Police presence has become an integral part of all peaceful assemblies.

Recommendations

1. Kazakhstan's laws and regulations on peaceful assembly should be harmonized with the requirements of the International Covenant on Civil and Political Rights, which Kazakhstan ratified in 2005.
2. Parliament should expedite its review of the Law "On the Procedure for Organizing and Holding Peaceful Assemblies, Meetings, Marches, Pickets and Demonstrations in the Republic of Kazakhstan," according to the National Human Rights Action Plan of the Republic of Kazakhstan, 2009-2012.
3. The practice of arresting participants in peaceful assemblies should be discontinued, according to the Order of the Minister of Internal Affairs (MVD) of the Republic of Kazakhstan, #665, on approval of instruction on the organization of the divisions of internal affairs bodies of the Republic of Kazakhstan, to ensure the protection of public order and safety of citizens during events of public associations on the streets and other public places.
4. Decisions taken by city and oblast maslikhats to designate certain locations for peaceful assemblies, must be recognized as violating guarantees provided by the Constitution of RK and international human rights agreements.

II. Kazakhstani Legal Framework Governing Peaceful Assembly and its Compliance with International Standards

Kazakhstani law regulates actions undertaken by citizens -- or even one citizen -- in public areas.

Kazakhstani law regulates not only peaceful assemblies by citizens, such as mass demonstrations in public areas, but also all actions undertaken by citizens -- or even one citizen -- in public areas. Holding a picket or hunger strike, or erecting a yurt, tent or other installation, is tantamount to holding an assembly, meeting, march, or demonstration. Distributing leaflets, joining flash mobs, wearing T-shirts or carrying umbrellas with political signs or slogans, laying flowers at memorials, are all considered to be "form[s] of expressing public, collective or personal interests and protest." Indeed any gathering where citizens discuss social or political issues requires permission from local authorities.

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The main Kazakhstani law regulating the exercise of the freedom of peaceful assembly is the Law of the Republic of Kazakhstan of 17 March 1995, "On the Procedure for Organizing and Holding Peaceful Assemblies, Meetings, Marches, Pickets and Demonstrations in the Republic of Kazakhstan" (hereinafter the Law on Peaceful Assemblies, or the Law). According to the Law, Kazakhstani citizens wishing to organize an assembly must obtain permission

from local government authorities (akimats). An assembly that is held without permission of authorities is considered a violation of the law, and its organizers are subject to administrative penalties.

Kazakhstani law stipulates that assemblies, meetings, pickets, demonstrations and marches may be held only if allowed by authorities and if certain requirements are met, including:

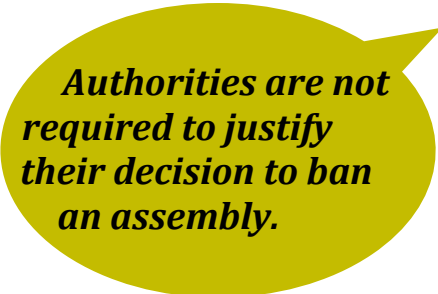
- a) submission of a special application ten days before the date of an assembly; and
- b) agreement to hold an assembly in specially designated areas.

If these procedures and requirements are not met, or if there is no agreement to hold an assembly in specially designated areas, authorities refuse to grant permission to hold an assembly.

Those seeking assembly permits must submit an application at least 10 days before their event. Article 7 of the Law requires that applicants to state the "goal, type, and place of an event or a march route, the time when it is expected to start and to end, and the expected number of participants, as well as full information about the or-

ganizers. A relevant local authority should review the application and grant (or not grant) permission to conduct an event.”

Authorities have the right to ban any peaceful assembly that is intended to “incite racial, ethnic, social and religious intolerance and clan superiority [...] as well as to violate other provisions of the Constitution, laws and other regulatory acts of the Republic of Kazakhstan,” or any assembly that “threatens public order and safety.” In practice, however, any peaceful assembly about a social or political issue may be regarded as threatening public order or inciting intolerance. Given that the Constitution regulates all areas of life, any criticism of it may be considered sufficient reason to ban an assembly. In addition to the Constitution, a plethora of regulatory acts and laws cannot be criticized. Such “thematic compliance” is the first obstacle to exercising the freedom of assembly in Kazakhstan.



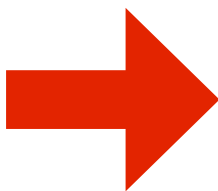
Authorities are not required to justify their decision to ban an assembly.

Authorities are not required to justify their decision to ban an assembly, or to provide evidence that an assembly may lead to unrest. It is enough for a public official to think that a meeting poses a threat to public safety, since any mass event in a public area is deemed to pose a threat to public safety.

A further obstacle to exercising the freedom of assembly in Kazakhstan is posed by the following provision of law: “it is not allowed to hold mass events at railroad, water and air transport sites, as well as in the vicinity of organizations responsible for defense, state security and livelihood of the population (public transportation in cities, water, energy and heating supply, and other utilities), and near health care and educational facilities.” This allows public officials to restrict significantly the possible locations for peaceful assemblies, excluding the National Security Committee, Ministry of the Interior, and the Ministry of Defense, among others.

The Code of the Republic of Kazakhstan on Administrative Offenses (Article 373 of the CoAO RK) and the Criminal Code (Article 334 of the CC RK) introduce liability for violating the Law, with sanctions varying from warnings, fines, administrative arrest up to 15 days, to imprisonment for up to one year. These provisions of the CoAO and CC RK are explicitly repressive in nature, as they are disproportionate to and inconsistent with the principle of legal certainty and predictability. Such legal standards enable the authorities to hold organizers of assemblies liable for the actions of third parties (e.g. provocateurs), to penalize participants for taking part in illegal meetings, and to prosecute third parties for facilitating such assemblies -- even if they didn't know they were facilitating illegal meetings.

Apart from the Law, decisions of local governments (akimats) regulate the conduct of peaceful assemblies in every settlement.



Kazakhstani authorities systematically violate international treaties and the government's commitments by denying authorization for peaceful assemblies.

In Kazakhstan, both the Law and decisions made by local authorities to designate sites for holding peaceful assemblies violate international human rights agreements. Thus,

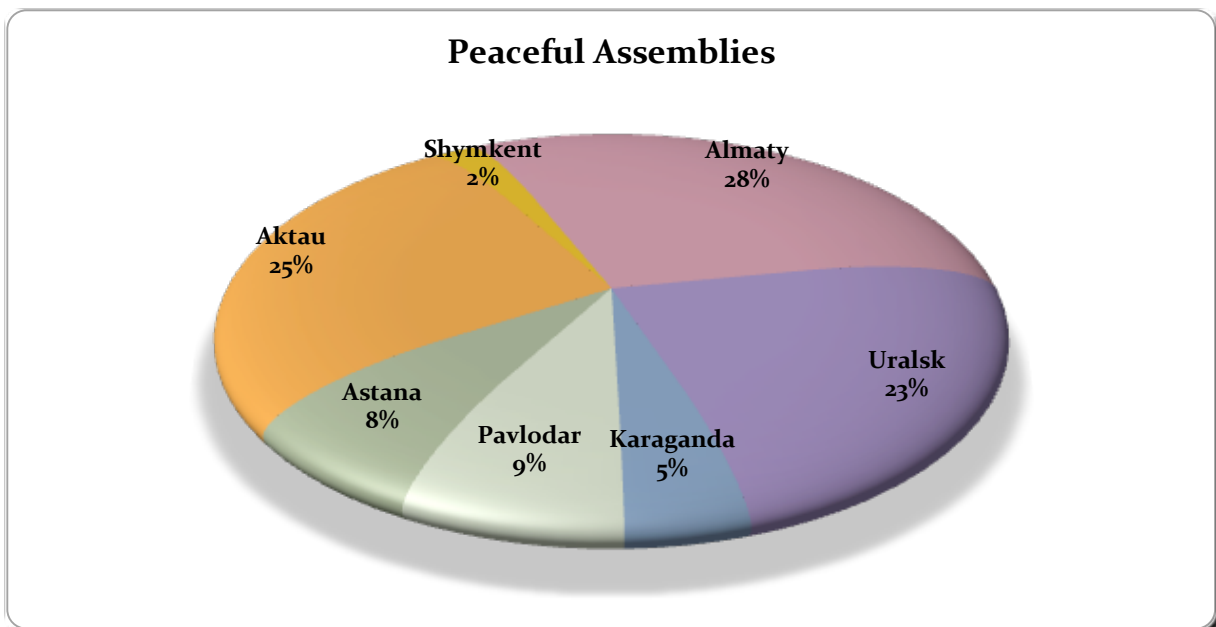
1. The concept of assembly envisaged in Kazakhstan's law on peaceful assembly violates international standards. Kazakhstan's Law regulates not only peaceful assemblies by citizens in public areas, but also any actions undertaken by citizens -- or even one citizen -- in public areas.
2. The Law prescribes a notification-based procedure for exercising the freedom of peaceful assembly. At best, a peaceful assembly may be held ten days after a decision is made by the authorities. Thus, it becomes impossible to conduct spontaneous meetings in response to any urgent event.

3. The Law prescribes that only a group of people may apply for a permit to hold an assembly, without giving the same right to individual citizens; and yet individuals are bound by the Law.
4. The Law establishes unconditional liability of those who organize a peaceful assembly for disrupting public order, and their liability for the safety of participants, which is not compliant with the Constitution of Kazakhstan and international standards.
5. The grounds used by Kazakhstani authorities to restrict or ban peaceful assemblies violate the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights (ICCPR).

The OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly set out international standards on exercising the freedom of peaceful assembly, and stipulate legal and reasonable grounds for restricting this freedom. Additional explanations can be found in the decisions of the UN Human Rights Committee and the European Court of Human Rights, from which it can be deduced that international safeguards on the freedom of assembly encompass any peaceful assembly, regardless of the type of place where it is held.

The participating States in the OSCE, in the final document of the OSCE Copenhagen Meeting, confirmed that, *“(9.2) everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards.”* Kazakhstani authorities violate this commitment by considering only the first requirement, that any restrictions should be “prescribed by law,” while completely ignoring the second requirement, that restrictions should be “consistent with international standards.” Understanding this is the key to explaining the generally prohibitive practices in Kazakhstan regarding the exercise of the freedom of assembly. Kazakhstani authorities, who are oriented toward restricting freedom of assembly, are reluctant to admit that such restrictions should be consistent with international standards.

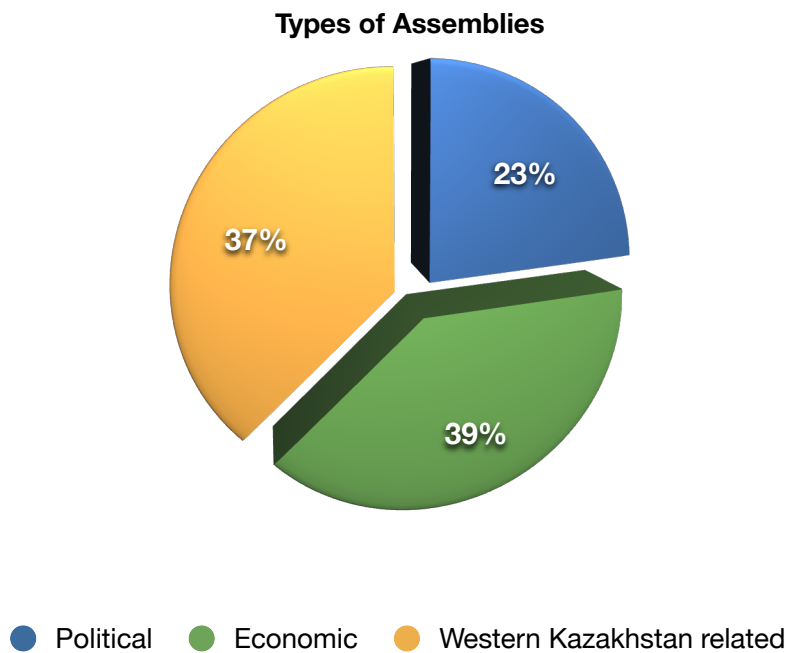
III. Findings



Bureau staff observed 102 peaceful assemblies held during the reporting period, using standardized observation cards to monitor and report. The following distribution of assemblies was observed:

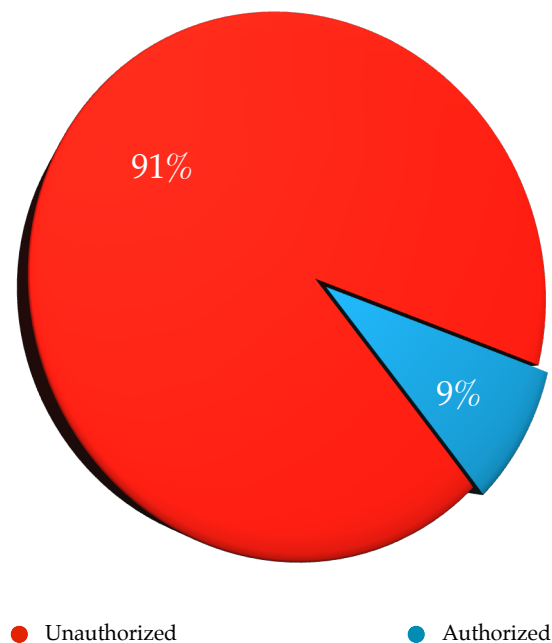
Almaty – 29 assemblies; Astana – 8 assemblies; Aktau – 26 assemblies; Pavlodar – 9 assemblies; Oral – 23 assemblies; Karaganda – 5 assemblies; Shymkent – 2 assemblies.

2. Of 102 assemblies that were observed, 23.5 percent concerned political issues, 39.3 percent were related to socio-economic issues, and 37.2 percent related directly to the strike by oil workers in Western Kazakhstan.



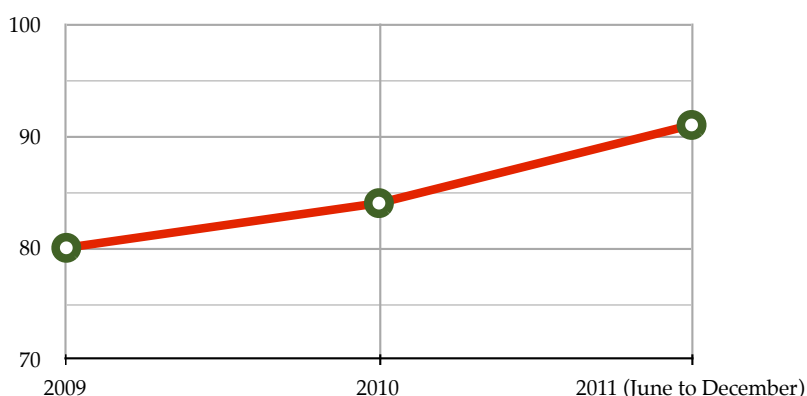
3. Ninety-one percent (91%) of assemblies were held without permission from authorities, in violation of applicable laws. This represents a continuing increase in unsanctioned assemblies. The Bureau reported that over 84 percent of assemblies in 2010 were not authorized, while about 80 percent of assemblies in 2009 were not authorized.¹ Only nine assemblies were authorized, eight of which were organized by government or pro-government organizations.

Authorized vs. Unauthorized Assemblies in 2011 (June to December)

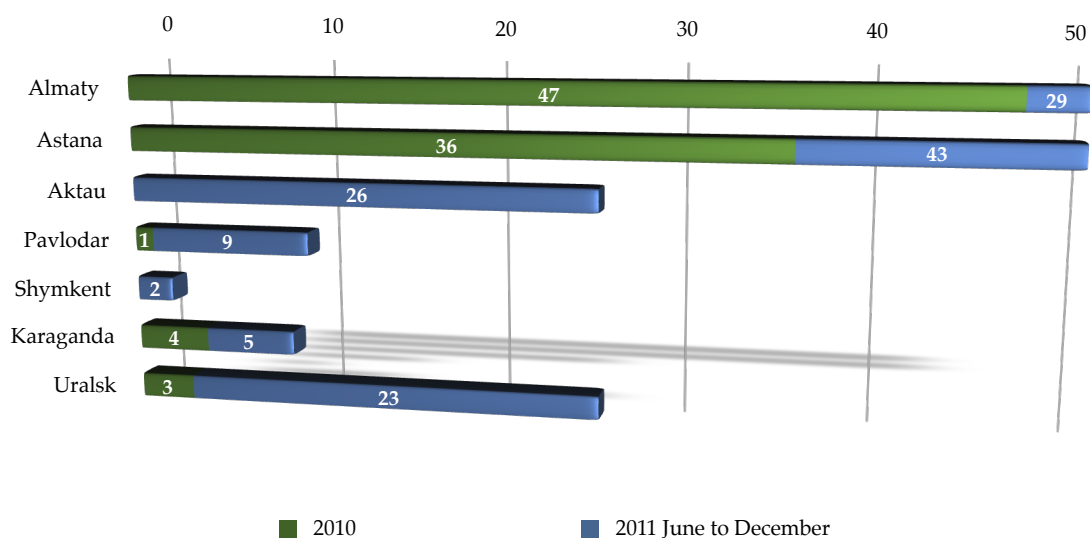


¹ 'Freedom of Peaceful Assembly in Kazakhstan: Authorization Denied,' report by S. Duvanov and V. Tyuleneva, Kazakhstan International Bureau for Human Rights and Rule of Law (Almaty, Kazakhstan), December 2010, p. 12

○ Increase in Unauthorized Assemblies, 2009 to 2011



Number of Assemblies in Selected Cities, 2010 vs. 2011

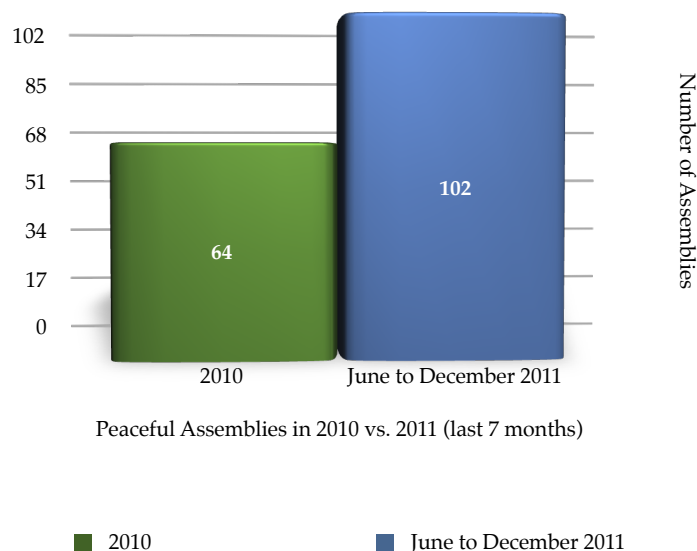


4. Police dispersed eight unauthorized assemblies. All others were held in the presence of police, who did not interfere. However, in some cases, the organizers of unauthorized assemblies were subsequently charged with administrative offenses. In five cases, participants in unauthorized assemblies were arrested on-site, and four people were penalized for violating administrative laws.

5. A total of 6837 people participated in peaceful assemblies during the seven-month reporting period.

Increased Civic Activism

The Bureau's monitoring indicates that the general level of civic engagement in Kazakhstan, as measured by participation in peaceful assemblies, increased significantly in 2011. The number of public assemblies increased from 64 assemblies in 2010, to 102 assemblies during seven months of 2011.



Peaceful Assemblies in 2010 vs. 2011 (last 7 months)

Oral and Pavlodar witnessed significantly more assemblies in 2011 than in 2010. Astana and Karaganda also saw more public assemblies. However, city authorities in Karaganda organized two of the assemblies to unveil monuments to public figures. Aktau showed the biggest change during the reporting period.

The number of *unauthorized* peaceful assemblies also increased in 2011, compared to 2010. Bureau staff observed 93 *unauthorized* public assemblies, which accounted for 91 percent of all assemblies held, while only nine assemblies were authorized by authorities. In 2010, 84 percent of observed assemblies were held without permission of authorities.

Almaty was the location of the most assemblies, and the most unauthorized assemblies, as it was in 2010. However, while some of the Almaty assemblies were authorized, not a single public assembly was authorized in Aktau or Oral.

Striking oil workers organized 26 demonstrations in "Yntymak" Square in Aktau, none of which was authorized. While even more demonstrations were held in Almaty (29), Aktau is notable for the size, duration, and emotional intensity of its assemblies, which were related to events surrounding the strike by oil workers in Mangistau region. Moreover, events in the Mangistau region (including Aktau) inspired a number of protests in other cities. A total of 12 assemblies were held in solidarity with striking oil workers and in memory of those killed in confrontations with police. These assemblies were held in all cities except Shymkent.

Increased Defiance of the Law

A majority of the organizers of peaceful assemblies in 2011 *did not apply for permits* to hold assemblies. Organizers gave different reasons for defying this provision of Kazakhstan's law on peaceful assembly.

A majority of organizers of assemblies did not apply for permits.

Over one third of organizers of unauthorized assemblies (36.5 percent) did not apply for permits on principle, because Kazakhstan's laws violate international human rights principles, commitments made by the government, and the country's Constitution. They chose to ignore Kazakhstan's law; instead, they followed the international standards established by the International Covenant on Civil and Political Rights, which Kazakhstan ratified in 2005.

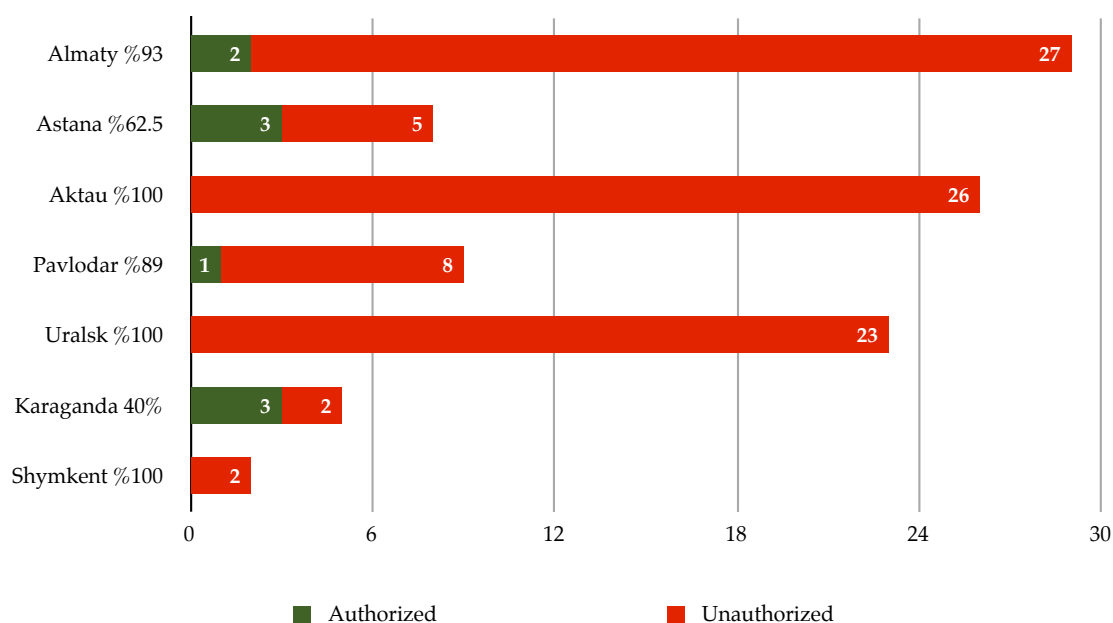
Nearly half of the organizers of unauthorized assemblies (47.3 percent) did not apply for permits because they thought they would be denied. For example, Karaganda lawyer Eugene Tankov applied 80 times during recent years for permits to organize peaceful assemblies. He received permission only once, to hold a rally at an abandoned facility on the outskirts of the city.

A lawyer in Karaganda applied 80 times for permits, but received permission only once.

Another 15 percent of organizers were not aware that they had to apply for permission. Bureau staff observed that many of those who were not aware of the law were citizens who decided to protest for the first time by attending a peaceful assembly. Thus, in 2011 as in 2010, the general practice of organizers was not to apply for assembly permits, an expression of opposition to the authorization system.

While both Astana and Karaganda saw more applications for assembly permits in 2011 compared to the previous year, the proportion of unauthorized assemblies in Astana grew. Civic activists in Pavlodar also demonstrated a low regard for the law "On Peaceful Assemblies"; 89 percent of assemblies they held were not authorized.

The table below indicates the number of assemblies held in each city, with the breakdown of authorized and unauthorized assemblies:



Kazakhstani authorities systematically violate the International Covenant on Civil and Political Rights as well as other international legal instruments that the Government of Kazakhstan has agreed to, by denying authorization for peaceful public assemblies. Officials use pretexts to deny citizens the right to assemble peacefully. And in most cases where assembly permits are granted, local authorities require the assemblies to be held in designated areas that are far from city centers and sparsely populated. Such assemblies lose their meaning, because they are deprived of their intended audience. It is because of this that many citizens (47.3 percent) *choose not to apply for assembly permits*, preferring to hold assemblies at a place and time of their choice, even if they are penalized for administrative violations. In view of the fact that over 90 percent of assemblies are not authorized but are held anyway, it can be observed that civil society has, *de facto*, repealed the Law.

Public protests by citizens of Kazakhstan convincingly show their desire to exercise the right of Freedom of Assembly. Kazakhstan's legal framework and practices deny that right. These laws and practices are excessively prohibitive, outdated, and must be reformed.

Rallying Causes

A notable change that occurred in 2011 was the emergence of ordinary citizens and diverse social groups as the leading organizers of public assemblies. The main reason behind public protests was the strike by oil workers in the Mangistau region. During the strike, monitors observed 26 meetings that were held in the public square next to the city administration in Aktau. Thus, more than 25 percent of all assemblies were held in Aktau.

Oral (Uralsk) also saw a surge in civic engagement in 2011, with 23 assemblies held there, comprising 22.5 percent of all assemblies. The public organization “Generation,” which unites senior citizens in Oral, with the support of the Communist Party of Kazakhstan, held a series of assemblies to protest rising fuel prices and to propose building a new refinery. They assembled for 11 days in public squares of the city, while activists collected signatures on a petition to the President and Government.

Among groups that organized public assemblies, the Almaty youth club *Rukh Pen Til* was distinguished by the frequency and originality of its protests. In just six months, this youth club held six public actions, accounting for nearly six percent of protests observed in 2011. In one public event, *Rukh Pen Til* presented a pension book to President Nazarbayev (*in absentia*), to suggest that he should retire. In another, the group held a symbolic funeral for the presidential political party Nur Otan. Two events protested Kazakhstan’s joining a Customs Union with Russia and Belarus. Another assembly was held in support of their leader, Zhanbolat Mamaia, who was detained for 10 days.

The association of citizens, “Leave Houses to People” also continued to hold assemblies. In seven months, this NGO organized seven protests in Almaty, Astana and Pavlodar, which accounted for nearly seven percent of all assemblies.

The political opposition participated in significantly fewer assemblies and organized only nine percent of peaceful assemblies in 2011. The opposition held an assembly in Almaty on 2 October 2011, in support of Kazakh language. The Alga party held a number of rallies in support of oil workers of Mangistau region, and a protest against the suspension of the Communist Party of Kazakhstan. In 2010, opposition political parties organized at least 40 percent of all public assemblies, and Alga and the Communist Party of Kazakhstan initiated most of the public assemblies involving social and political issues.

The Socialist Movement of Kazakhstan held three public assemblies in solidarity with the oil workers of Zhanaozen. The Movement’s last public act was participating in a demonstration in Almaty’s Republic Square, to celebrate Kazakhstan’s Independence Day. The Movement’s activity declined markedly after its leaders, Ainur Kurmanov and Esenbek Ukteshbaev, were forced to leave the country. However, it should be noted that the police closely monitor the Socialist Movement of Kazakhstan, and have twice detained its activists to prevent them from holding a public assembly.

Other peaceful assemblies were organized by individuals and groups of people who, as a rule, are not politically active, but who joined public protests due to dissatisfaction with violations of their rights and unbearable living conditions. Many of these assemblies concerned social issues, such as working conditions and labor rights. The assemblies were organized by individuals, families, students, laborers, motorists, those who seek social justice. As a rule, public protests are organized by people who have lost hope that they can solve their problems by appealing to the authorities.

An assembly that was held on 23 December 2011, near the Monument of Independence in Almaty, deserves special mention. The assembly was dedicated to the memory of victims in Zhanaozen. The event did not have any organizers, but about 50 people attended, holding air lanterns and candles. The meeting happened spontaneously, in the course of discussion on social networking websites about events in Zhanaozen. Activists from political parties spoke, calling for an objective investigation by an independent commission. This assembly can be considered the first in which dissatisfaction moved from virtual forums to city squares. The event confirms that in Kazakhstan, the Internet has become a tool for strengthening civic engagement.

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Ordinary People

The increase in the number of peaceful assemblies devoted to the socio-economic problems of ordinary people is notable. These accounted for 78 percent of all recorded peaceful assemblies in 2011, including the demonstrations of oil workers.

Typical examples of such activity are:

- Motorists protesting petrol price hikes, which occurred 28 August in Almaty and 17 October in Oral.
- A spontaneous protest by the residents of cottages in "Green Meadow" settlement near Astana, against frequent power cuts.
- An assembly near the Department of Customs Control in Shymkent, where about 50 disgruntled motorists protested against the actions of Customs officers and demanded repayment of fees.
- Employees of Pavlodarskaya poultry farm near the village of Kyzylzhar, in Pavlodar region, blocked traffic on the Pavlodar-Aktogai highway on December 9, demanding payment of six months' back wages.
- On 20 August, in Astana, an assembly was organized by an activist of the Communist Party of Kazakhstan, L.N. Zonova. The assembly was authorized by the authorities and was held in the designated site, a park in the outskirts of the city.
- On 30 August, about 200 participants held another authorized assembly in the same place. It was organized by the Labor Movement and devoted to the right to work.
- In Shymkent, on 11 July, near the building of the Regional Akimat/Administration, 20 Oralman (returnees) held an assembly to protest authorities' failure to allocate land to them.
- A family picketed the regional administration (*akimat*) in Oral, demanding the cancellation of an illegal court decision and punishment of corrupt officials.
- Students of the Faculty of Journalism of Almaty Kazakh National Pedagogical University assembled to protest against actions of the university administration.

As the overall number of assemblies increased from 64 assemblies in 2010 to 102 assemblies in 2011, an increase of 59 percent, the proportion of assemblies about political issues declined. Only 23 percent of assemblies held in 2011 concerned political issues.

There are three reasons for this change. Two relate to the opposition, and the third, to the general economic situation in the country. One reason for the decreased engagement of the political opposition in assemblies is that some of its members chose to be "constructive" and not annoy the authorities, in the hope that this would benefit them in parliamentary elections. An example of this is the decision taken by leaders of the National Social Democratic Party Azat, who planned to hold a rally in Almaty on 5 November to defend freedom of expression. However, they cancelled the event after authorities refused to issue a permit. Their decision indicates an understanding that Ak-Orda [the Presidential administration] disapproves of public assemblies on the eve of elections.

The second reason is the harsh penalties applied for unauthorized political actions. In the past, protesters would be fined up to \$100, but fines have increased up to \$500. Activists who used to participate in various political protests now say that the threat of a \$500 fine is very serious for them. Another deterrent to political participation is the threat of administrative arrest for up to 15 days, for those who participate in two unauthorized assemblies within one year. A seriously deterrent to engagement in assemblies is the threat of imprisonment. Opposition activists E. Narymbaev and A. Sadykov were imprisoned for four and two years, respectively, for resisting police. According to the Law, unsanctioned assemblies should be "unconditionally terminated at the request of local executive authorities." If such requests are not adhered to, "necessary measures" may be taken to put an end to assemblies. In this case, if police demand that assembly participants disperse, refusing to do so can be considered resistance -- a criminal offense.

And finally, the third reason that political concerns account for a smaller share of peaceful assemblies in Kazakhstan is the continuing deterioration of the socio-economic situation in the country. A growing number of Kazakhstanis are starting to feel the effects of the economic crisis, which are manifesting in everyday life more and more. Ordinary people are feeling hopeless in the face of rampant corruption, the absence of social guarantees, corrupt courts, and the general atmosphere of lawlessness. Insecurity has led to desperation, and as a consequence, willingness to take any action, including illegal actions. People have lost faith in the possibility of

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“breaking through the wall” of bureaucratic abuse and neglect. Public protest is the only method left, and increasingly people are taking to the streets and public squares.

Authorities’ Response

Police interfered with significantly fewer public assemblies in 2011 than they did in 2010. Police interfered with only five percent of assemblies in 2011, by preventing assemblies from being held, and/or detaining participants. In 2010, police interfered with 30 percent of assemblies. The reason for this significant change is unclear.

- However, participants in peaceful assemblies continued to face arrest, detention, and imprisonment in 2011.
- On 1 July, five members of the youth club *Rukh Pen Til* were arrested in Almaty for organizing a picket to protest Kazakhstan’s entry into a customs union with Russia and Belarus.
 - In August, Akzhanat Aminov, a leader of striking oil workers in Zhanaozen, was sentenced to one-year imprisonment, suspended for two years, for inciting social hatred.
 - In August, Natalia Sokolova, a lawyer for striking oil workers, was arrested. She was convicted of inciting social hatred, and sentenced to six years in prison.
- In Aktau, Zhanbolat Mamai, the leader of the youth club *Rukh Pen Til*, was arrested in August and sentenced to 10 days for participating in an assembly with nearly 1000 other people in Zhanaozen.
- On 17 August in Almaty three people were detained while picketing near the office of Nur Otan party, in support of the strikers in Zhanaozen. All three picketers were sentenced: Zhanna Baytelova to 14 days administrative arrest, Arman Ozhaubaev and Dmitri Tikhonov to five days administrative arrest.
 - On 17 December in Almaty’s Republic Square, during a peaceful assembly in memory of the victims in Zhanaozen, a group of about 100 people were stopped by police while trying to march to the office of Nur Otan political party. Police pushed protesters back toward the square and arrested more than 10 people, who were taken to the Bostandyk district police department and held until evening before being released. However, only one participant was brought before an administrative court and sentenced to 15 days administrative arrest.
 - On 20 December in Almaty, four activists who were putting up posters in 28 Panfilov Heroes Memorial Park, calling for amnesty for human rights lawyer Yevgeny Zhovtis, were detained and taken to the district police office. The detainees were forced to write explanations, and then released.

In practice, both the public and the authorities are ignoring the law on peaceful assembly. Over 90 percent of all assemblies are not authorized.

A heavy police presence was observed at all forms of public protest during 2011, as State authorities’ monitoring of all activities by civil society and the political opposition continued and even intensified. Nearly all public assemblies concerning socio-political issues took place in the presence of a police squad, with five to 15 police officers, in uniformed or civilian clothes. In some cases, monitors observed a bus full of policemen hidden nearby. In Almaty, for every person who attended a protest, there was on average 0.8 police; in Astana, the ratio was 0.6 police per participant; in Shymkent, 0.7; and in Pavlodar, 0.2. The average ratio for all Kazakhstan was 0.35, which is approximately one police officer for every three protesters.

Police presence increased dramatically in Western Kazakhstan after violence broke out in Zhanaozen on 16 December. Before then, Aktau had an average of one police for every ten protestors. After 16 December, the average changed to 1.5 police for every protestor in Aktau. In Oral, the average is 3.5 police to every protestor.

While police presence has become an integral part of all peaceful assemblies, police interference with assemblies declined in 2011, compared to 2010. Police interfered with only five percent of assemblies in 2011, by preventing the assemblies from being held, and/or by detaining participants.

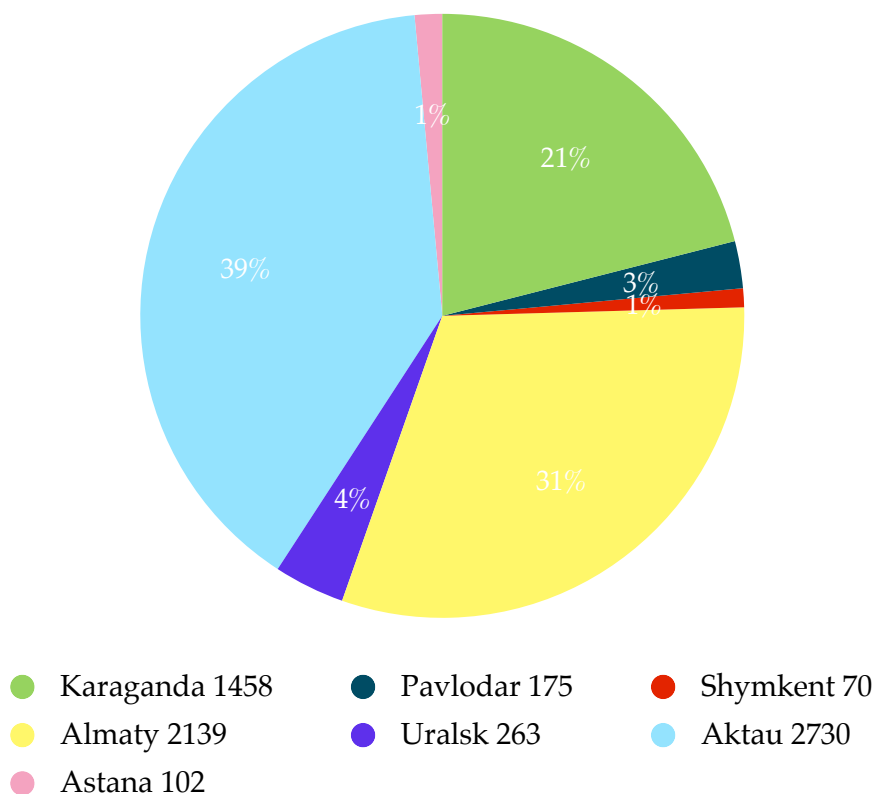
The incidence of protesters being fined or arrested also declined significantly in 2011, compared to 2010. In 2010, courts imposed administrative penalties on 33 percent of the organizers of public assemblies, compared to five percent in 2011. Public prosecutors also showed restrained in 2011, compared to 2010. In 2011, 95 percent of all unauthorized assemblies took place without a prosecutor warning protesters that holding an unauthorized assembly is a violation, whereas prosecutors issued warnings at the majority of unauthorized assemblies in 2010.

Past experience has shown that attempts to crack down on protesters can have higher political costs for the government than allowing the assemblies to take place. A public gathering of 60 people, or a political rally of 500 people, does not resonate much with society at large. However, when such assemblies are dispersed by force, the participants arrested or detained, the organizers put on trial, the public takes notice. Apparently, Ak-Orda has concluded that most assemblies organized by the political opposition do not pose a threat. As a consequence, 2011 saw less interference with opposition assemblies, mass arrests or trials of opposition leaders. The exceptions are the dispersals of demonstrations by oil workers in Zhanaozen and Aktau in May, at the beginning of their strike, and dispersal of demonstration by Kazakhstan Socialist Movement activists on 1 May in Almaty.

In practice, both the public and the authorities are ignoring the law on peaceful assembly. Authorities are overlooking the fact that 91 percent of all assemblies are not authorized; and 95 percent of the time, prosecutors are ignoring their obligation to warn protestors. Authorities may have adopted a more liberal attitude toward unauthorized assemblies to avoid creating problems. However, law enforcement continues and even intensifies its monitoring of all activity by civil society and the political opposition. Police presence has become an integral part of all peaceful assemblies.

Participation in Public Assemblies

During the seven months' observation period, 6837 people chose to attend a total of 102 public assemblies. (The total excludes a large assembly that was organized by the city administration in Pavlodar, with coerced attendance.) The largest assembly, which more than one thousand people attended, was held in Almaty and organized by the political opposition. In general, events organized by political parties and civic groups attracted between 30 to 100 people. Many events by various non-governmental organizations attracted between four and 10 people, and other events were staged by individuals.



Total: 6837 people

IV. Conclusions

The Bureau's monitoring showed that Freedom of Assembly was severely restricted in Kazakhstan in 2011. Kazakhstan's legal framework and practices violate the country's commitments under human rights agreements, *inter alia*, the International Covenant on Civil and Political Rights and OSCE Copenhagen Document. In 2011, as in previous years, the possibility for any citizen of Kazakhstan to receive authorization to hold a peaceful assembly was determined by (a) the political loyalty of the organizers; and (b) compliance with a number of procedural conditions outlined by public officials.

Despite these restrictions on Freedom of Assembly, the number of assemblies increased in 2011, compared to 2010. This indicates that civic engagement is growing in Kazakhstan. Social tension is also growing, as indicated by protests against employers and State authorities. The increased share of *unauthorized* assemblies in 2011, and their growing frequency, indicate that more and more people are willing to defy the law to make their voices heard. That defiance shows that reform of Kazakhstan's legal and regulatory framework governing Freedom of Assembly is overdue.

Decreased engagement by registered opposition political parties in 2011, and their inability to organize politically significant public assemblies, may indicate problems in the opposition movement, which has failed to win the sympathy of the population over the last ten years.

The most notable trend of 2011 was the significant number of unsanctioned protests about socio-economic issues, by ordinary people who, up to now, had avoided any political activity. Their willingness to attend public demonstrations in violation of the law implies a sense of desperation, and the possibility of serious discontent among the population. It also points to an increased risk that peaceful protests may become violent if they are met with force.

In this light, the lower incidence of police interference with peaceful assemblies devoted to political issues in 2011 can be viewed as a sign that authorities have decided to downplay assemblies that pose no real threat to political stability or the existing regime. Arrests, detentions, and prosecution of the organizers and participants in unauthorized assemblies declined in 2011. However, security measures during public assemblies were increased. State authorities consider how many police will be required to end a protest, if the situation gets out of control.

