

**KAZAKHSTAN INTERNATIONAL BUREAU
FOR HUMAN RIGHTS AND RULE OF LAW**



MONITORING FREEDOM OF ASSEMBLY IN KAZAKHSTAN:

JUNE 2011 – APRIL 2012

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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 the government and law enforcement authorities with respect to freedom of assembly.

This report includes the results of monitoring assemblies in seven cities of Kazakhstan: Aktau, Almaty, Astana, Karaganda, Pavlodar, Uralsk, and Shymkent. Monitoring was conducted by staff of the Bureau from 15 July 2011 through 1 April 2012, using standardized observation cards to monitor and report. Andrey Grishin served as Project Coordinator and Sergey Duvanov analyzed the results.

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The views or opinions expressed herein are the sole responsibility of the author and do not necessarily reflect those of the National Democratic Institute.

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I. Executive Summary

The Kazakhstan International Bureau for Human Rights and Rule of Law (the Bureau) monitored the status of freedom of assembly in Kazakhstan from 1 June 2011 through 31 April 2012. Staff members of the Bureau monitored 162 peaceful assemblies in seven cities of Kazakhstan: Almaty, Astana, Aktau, Karaganda, Uralsk, Pavlodar, and Shymkent.

Several important trends were observed during the reporting period. Number, frequency and size of assemblies are growing, indicating increased level of civic engagement in Kazakhstan.

In 2011 majority of rallies related to socio-economic issues. A growing number of protests were staged by individuals that previously were not politically active.

Percentage of rallies related to political causes increased dramatically after December 2011. Zhanaozen protests where a number of participants were killed in confrontation with the police had a major impact upon political environment and mindset of the people. The number of assemblies driven by political protest increased by 73 percent in the first 4 months of 2012 with over 40 percent of all assemblies held for political motives. Opposition held rallies across the country to protest against violent dispersal of strikers in Aktau, unfair parliamentary elections and persecution of opposition activists.

Over ninety percent of observed assemblies were not authorized by the authorities. Organization of unauthorized assembly carries an administrative penalty that was upgraded during the reporting period. Despite the risk of fines and arrests majority of organizers chose not to apply for permits to hold an assembly. More people refused to apply for permits because they disagreed with the national law on peaceful assembly. While more people are aware of the requirement to obtain permits, greater number of organizers choose to ignore it and in doing so expressed their discontent with the procedure for peaceful assemblies.

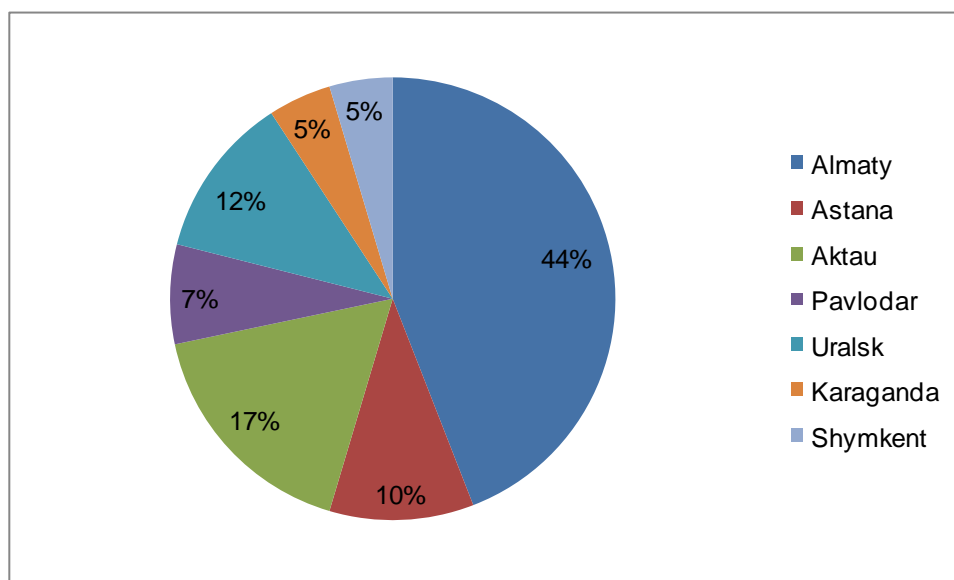
Authorities routinely deny applications for permits to hold public assembly filed by the opposition and dissent groups. In an increasing number of cases officials denied permits under the pretext that the places indicated by the applicants have been reserved for other public events.

While police presence has become an integral part of all peaceful assemblies, police interference with assemblies declined over the reporting period.

II. Findings

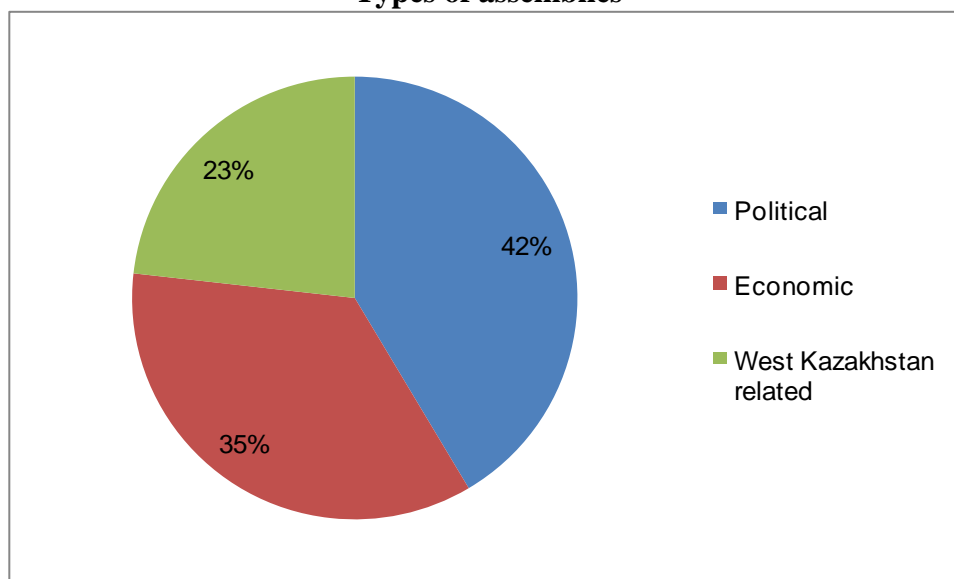
During the reporting period the Bureau observed 162 peaceful assemblies in seven cities of Kazakhstan: Almaty – 67 assemblies; Astana – 16 assemblies; Aktau – 26; Pavlodar – 11; Uralsk – 18; Karaganda – 7; Shymkent – 7.

Peaceful assemblies by the city



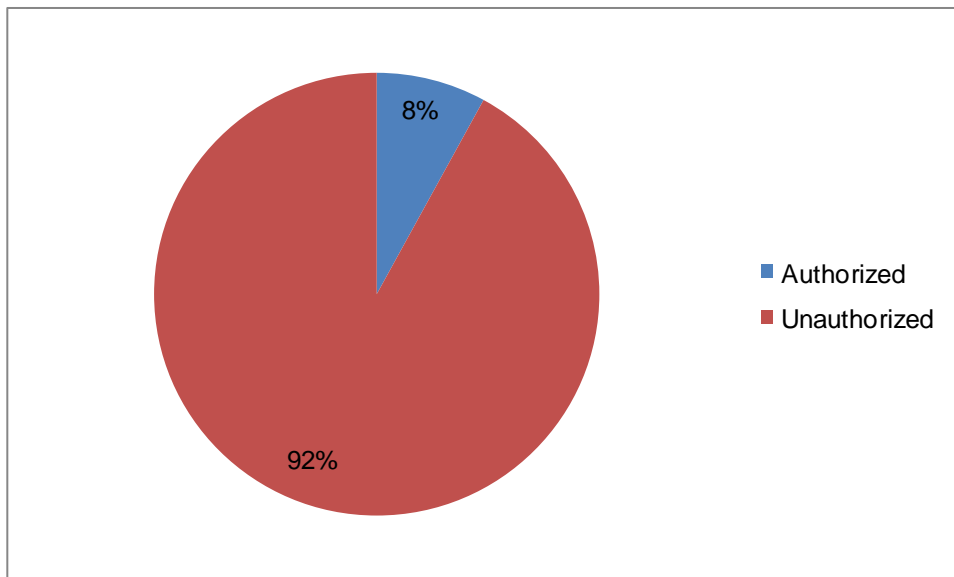
2. Out of 162 assemblies that were monitored 41.3% related to political issues, 35.1% – to social and economic issues, while 23.4% directly dealt with the strike of oil industry workers in Zhanaozen in West Kazakhstan.

Types of assemblies



3. 92.5% of observed assemblies were not authorized by the authorities, which is punishable by the administrative law. Just 12 out of 162 assemblies had a permit with 8 of these 12 organized by the authorities or pro-government groups.

Authorized vs. unauthorized assemblies

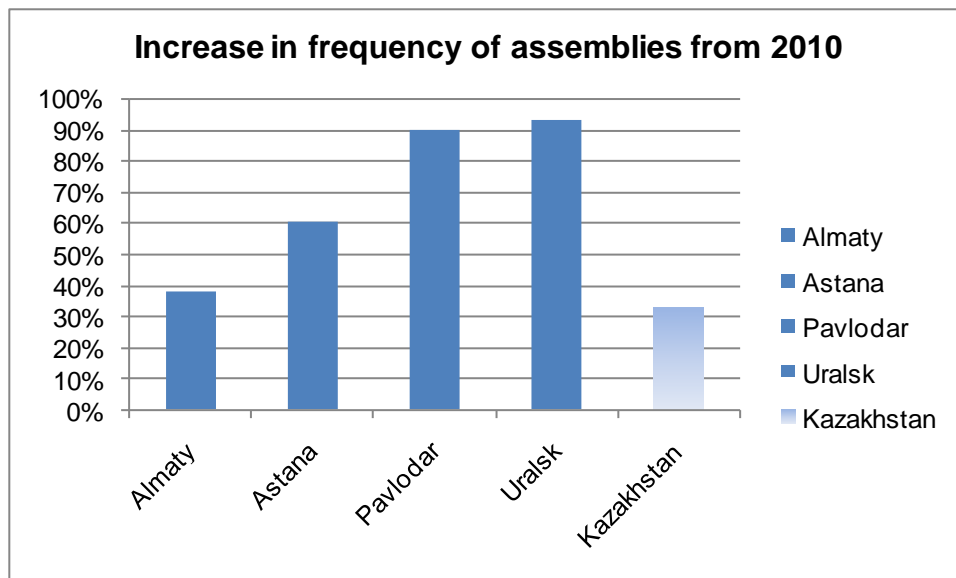


4. Police attempted to disperse 12 unauthorized assemblies. In rest of the cases police did not interfere, but were present during the assembly and subsequently pressed administrative charges against the organizers. Police detained protesters in 9 of the unauthorized assemblies and charged them with administrative violation.

5. A total of 10,060 people participated in the assemblies during the reporting period with overall duration of assemblies amounting to 245 hours.

Increase in Civic Activism

The Bureau’s monitoring indicates that the general level of civic engagement in Kazakhstan, as measured by participation in peaceful assemblies, increased almost twofold comparing to the previous reporting period. Comparison data is not available for Aktau and Shymkent, where in 2011 the frequency of assemblies (ratio of number of assemblies to the period of time) amounted to 2.4 and 0.7 assemblies per month.



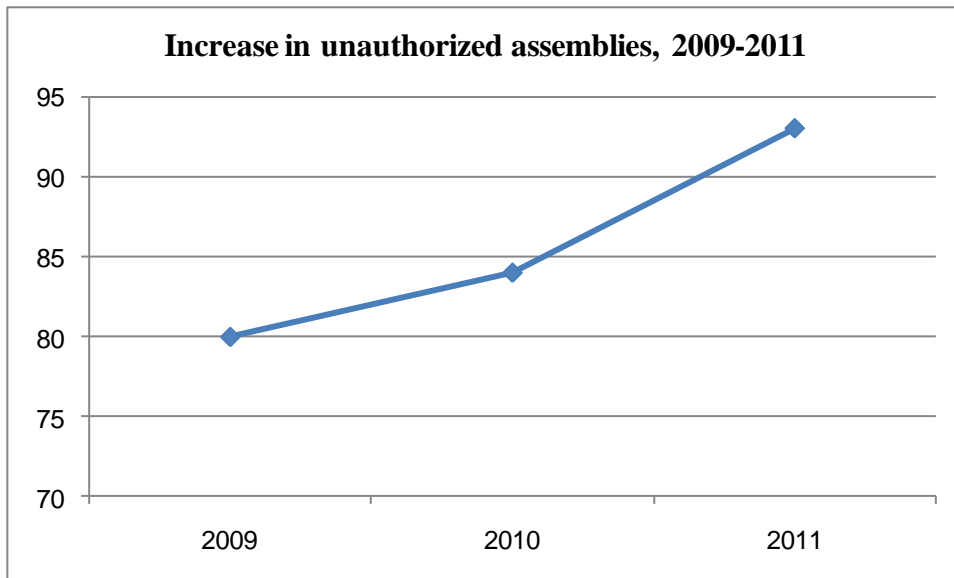
Almaty had the greatest number of assemblies, but Aktau was leading in terms of size, duration and intensity of events, all of them related to strike of oil workers in Mangistau region. During the six months of the strike oil workers organized 26 protest rallies. Protests in Mangistau region have spread to other parts of the country. The total of 12 assemblies were held in other cities to support the strikers and to honour the memory of those who were killed during confrontation with the police.

Uralsk and Pavlodar saw a massive increase in number of assemblies. Residents of Astana have also stepped up protest activity with the number of peaceful assemblies increasing twofold.

Slight increase in number of assemblies in Karaganda can be attributed to the fact that authorities have organized two mass meetings to unveil monuments to public figures. Actual frequency of assemblies in Karaganda remained the same.

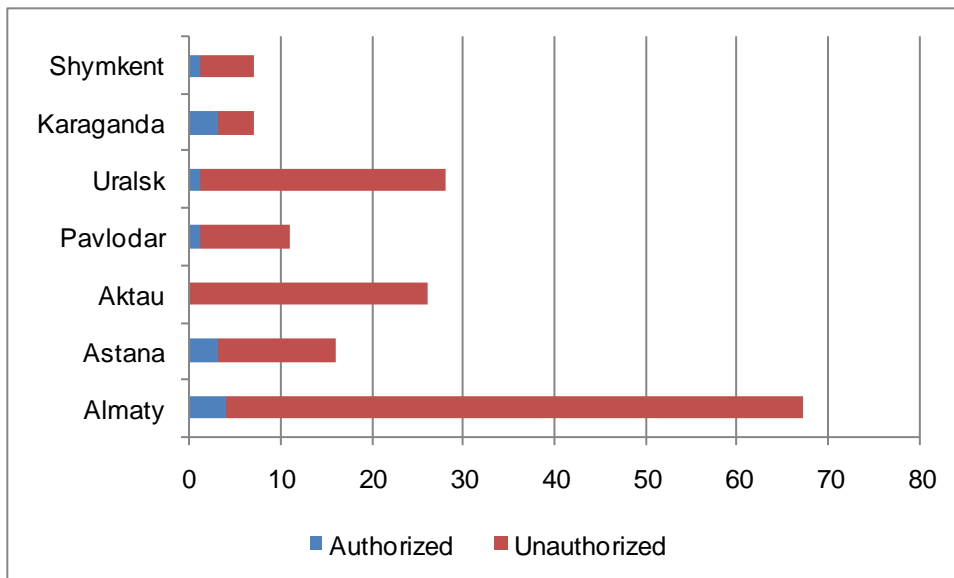
Increased Defiance of Law

Majority of public assemblies were not authorized by the authorities as required by the national legislation. The number of assemblies held without permission increased from 84% in 2010 to 92.5% in 2011.



In the past years Almaty had the highest percentage of assemblies held without the permit. However, in this reporting period both Uralsk and Aktau closely followed by Pavlodar had more unauthorized assemblies. A growing number of unauthorized assemblies was observed in Astana where 90% of assemblies held in 2011-2012 were held without the permit an increase of 60% over the previous reporting period.

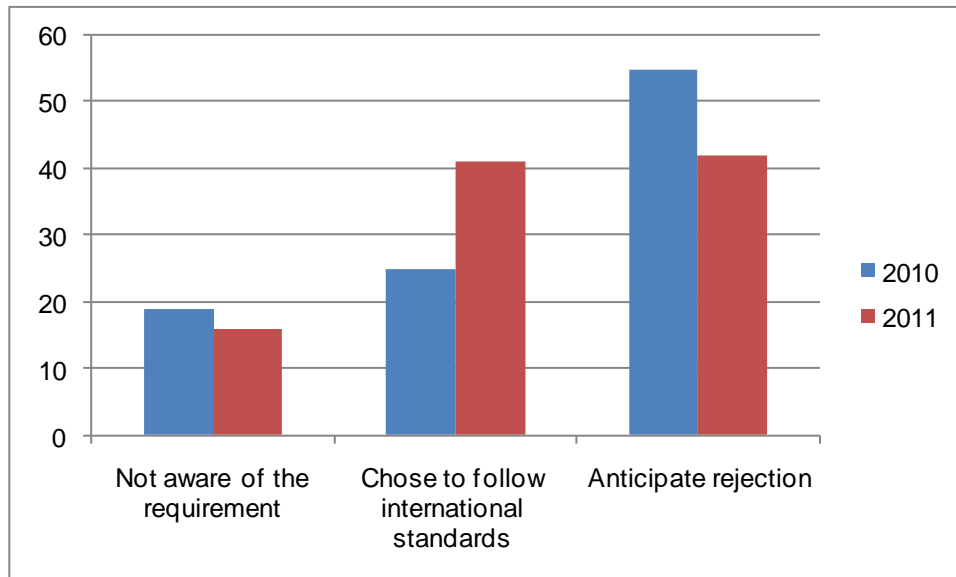
Authorized vs. unauthorized assemblies over the reporting period



Increased number of organizers did not to apply for permits to hold an assembly due to the following reasons:

- Organizers disagreed with the domestic law that violates international standards
- Organizers did not apply for permits because they anticipated being denied
- Organizers did not know that a permit was required.

Reasons for refusal to apply for permits to hold an assembly in 2010 and 2011 (%)



Number of those not aware of the requirement decreased, but at the same time more people refused to apply for permits because they disagreed with the national legislation. As in 2010 majority of organizers choose to ignore the law that requires them to apply for permits to hold an assembly. While more people are aware of the requirement to obtain permits, greater number of organizers choose to ignore it and in doing so expressed their discontent with the procedure for peaceful assemblies.

Citizens of Kazakhstan prefer not to follow the Law on Peaceful Assemblies that obliges them to obtain a permit with the local government. This defiance can be explained by the fact that these legislative provisions are outdated and contradict both the international human rights standards and the principles envisaged by the country's Constitution. Over one third of organizers (36.5%) chose to ignore the domestic legislation and instead follow the international standards established by the International Covenant for Civil and Political Rights ratified by Kazakhstan in 2005.

Another reason behind refusal to seek permits is related to the government's restrictive practices, Local officials routinely use various pretexts to deny authorization for peaceful assemblies. Even when the permit is granted, authorities usually demand that the assembly would be held in a sparsely populated area on the outskirts of the city. In these cases organizers find that an assembly deprived of its intended audience loses its mass appeal. As a result over 83 percent of organizers choose not to apply for assembly permits and to hold an assembly at a place and time of their choice even at risk of administrative punishment. In general, over 90 percent of peaceful assemblies are held without authorization, meaning that the restrictive provisions requiring organizers to seek permits de facto are no longer relevant and need to be revoked.

“Over 83 percent of organizers choose not to apply for assembly permits even at risk of administrative punishment”

Driving Forces

In 2011 opposition parties became less active in initiating public assemblies with just above 9% of protests organized by the political parties (down from 40% in 2010). In the early months of 2012, however, the situation has changed as the intensity of public protests increased being fueled by the

arrests of Alga party leaders, trials of strikers in West Kazakhstan and tensions in the aftermath of Zhanaozen shootings.

The opposition held a series of 17 small protests outside the KNB detention facilities in Almaty to protest against the arrests of Alga leader Vladimir Kozlov, Vzglyad editor Igor Vinyavski and People's Front activist Serik Sapargali. Socialist Movement of Kazakhstan have also protested in front of the Nur Otan (the ruling party) headquarters.

Majority of protests, however, were related to the strike of oil workers in the Mangistau region. Aktau monitors observed 26 mass meetings held in front of the city administration building during the months of the strike. Over 25 percent of all assemblies were held in Aktau.

Uralsk also saw a surge in civic engagement with 28 assemblies many of them organized by the public organization "Generation," which unites senior citizens. Together with the Communist Party of Kazakhstan they have collected signatures on a petition to the President and the Government requesting changes in fuel pricing and advocating construction of a new oil refinery. Other protests in Uralsk, driven by political causes, were organized by the staff of the Uralskaya Nedelya newspaper. Journalists together with the NGOs and the opposition held four meetings to express their concern about freedom of assembly, fair elections and fair justice.

Azat opposition party stepped up its protest activity in the wake of parliamentary elections. On 17 January, 350 Azat activists protested against the election results, while the second rally on 28 January in the center of Almaty had drawn 1000 participants. Azat held more protests as part of the Movement of the Dissent on 25 February, 24 March and 28 April with the last assembly spanning six cities of Kazakhstan. 400 people participated in Almaty; the protest in other cities was supported by anywhere from 12 to 50 activists. Azat also held a number of small protests to demand release of party leaders arrested for organizing unauthorized assemblies.

On 28 January 1000 people protested against the unfair parliamentary elections in Almaty

Zhanaozen events were a catalyst for public protest and had a major impact upon political environment and mindset of the people. 10 peaceful assemblies were held across Kazakhstan to pay tribute to the victims of Zhanaozen events.

A meeting held on 23 December 2011 in Almaty at the Independence monument was dedicated to the memory of Zhanaozen victims. The event did not have any organizers, but about 50 people attended, holding air lanterns and candles. The participants assembled spontaneously following the discussion on the online social networks. Political activists spoke at the meeting calling for an objective investigation by an independent commission. This event was a first case where discontent expressed on the Internet had spilled over to the city streets. It showed that Internet in Kazakhstan is set to become a tool for increased civic engagement

The association of citizens, "Leave Housing to People" had fewer assemblies than in the past. In 2011 the association held just 9 assemblies.

The Almaty youth club Rukh Pen Til stood out due to creative and original format of their protest activities. During the reporting period the club held 6 public protests, such as presenting a pension book to President Nazarbaev (in absentia), to suggest that he should retire, and holding a figurative funeral for the ruling Nur Otan party. Other events included protesting against Kazakhstan joining a Customs Union with Russia and Belarus and an assembly to support Rukh Pen Til's leader Zhanbolat Mamai, who was detained for 10 days.

The Socialist Movement of Kazakhstan held five public assemblies. In the past this organization has been much more active, but the Movement's activity has declined after two of its leaders Ainur Kurmanov and Yessenbek Ukteshbaev were forced to leave the country. The police closely monitors activity of this organization 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 are not politically active, but were driven to protest because of violation of their rights and unbearable living conditions. As a rule these assemblies are organized by individual crusaders, students, families, car owners, residents of apartment blocks or workers. These are people who have lost hope that their problems can be solved by conventional appeals to the authorities.

Rallying Causes

2011 saw a notably increase in the number of peaceful assemblies organized by the rank-and-file citizens **to protest against economic concerns**. These protests, including events organized by the oil workers, accounted for 58 percent of all public assemblies held throughout the past year.

Typical examples of such activity include:

- Car owners protesting petrol price hikes on 28 August in Almaty and on 17 October in Uralsk;
- Spontaneous protest by the residents of "Green Meadow" suburban settlement near Astana, against frequent power cuts;
- An assembly near the Department of Customs Control in Shymkent, where about 50 car owners protested against fees imposed by the customs officials;
- Employees of Pavlodarskaya poultry farm in Pavlodar region blocked traffic at the Pavlodar-Aktogai highway on December 9, demanding payment of six months' back wages;
- In Shymkent, on 11 July held an assembly near the building of the regional administration 20 Oralman (returnees) held an assembly to protest authorities' failure to allocate land to them;
- A family of Iskak Azbergenov picketed the regional administration (akimat) in Uralsk, demanding revocation of an unlawful court decision and punishment of corrupt officials;
- Students of the Faculty of Journalism of Kazakh National Pedagogical University assembled in Almaty to protest against actions of the university administration.

During the first 7 months of 2011 economic causes were the driving force behind majority of public protests with just 23 percent of peaceful assemblies dealing with political issues.

While economic issues remained pressing, they did not cause widespread protest activity. Partly this is due to the fact that people's dissatisfaction with economic conditions did not reach the level needed for using this discontent for political purposes. Another reason is that participants of the economic protests tried to distance themselves from the political opposition. For example, both "Leave the Housing to People" movement and the Zhanozen oil workers refused to join forces with the opposition and stated that they were trying to avoid political involvement or confrontation with the authorities.

Dissatisfaction with economic conditions did not translate into political protest

Another trend in 2011 was that the opposition abated its political protest activities in the run up to the parliamentary elections. Opposition parties that have official registration took a 'constructive' stand and attempted to appease the authorities in order to secure a seats in the Parliament. For example, Azat

party that planned to hold a rally in support of freedom of expression on 5 November in Almaty, cancelled the event after authorities refused permission. This shows that Azat was ready to demonstrate understanding of administration's implied disapproval of any protest before the elections.

The drop in number of public assemblies in 2011 was also caused by the upgrading of penalties imposed on organizers of unauthorized assemblies. The fines increased from an average of 100 USD to almost 700 USD per person. During personal interviews activists indicate that a penalty of 700 USD is a serious burden to them. The threat of detention and imprisonment is also a serious deterrent from engagement in public protest. Anyone detained for participating in an unauthorized rally twice during one year can be imprisoned for up to 15 days. Even more alarming is the example of two opposition activists E.Narymbaev and A.Sadykov sentenced to 4 and 2 years of imprisonment for allegedly resisting police. Since under the Law refusing to disperse upon request of police can be considered resistance, and a criminal offence, participation in any rally is associated with the risk of imprisonment. All of these reasons resulted in decreased civic engagement in 2011 and prevalence of economic protest over political rallies.

Fines for organizing an unauthorized assembly increased from 100 to 700 USD

The situation has changed dramatically after the Zhanaozen shootings in the end of December. The number of assemblies driven by political protest increased by 73 percent in the first 4 months of 2012 with over 40 percent of all assemblies held for political motives.

While opposition had few serious causes for protest in 2011, violent dispersal of strikers in December 2011, unfair elections in January 2012 and persecution of opposition activists in February 2012 sparked protest that involved both opposition and parts of civil society.

Authorities' Response

Authorities routinely deny applications for permits to hold public assembly filed by the opposition and dissent groups. The Movement of the Dissent made 141 unsuccessful applications for permits to hold its fourth rally in different cities throughout the country. Just two opposition rallies were granted a permit: an Azat assembly on Kazakh language held in Almaty at a place designated by the authorities and a third Dissent rally in Uralsk.

Movement of the Dissent made 141 unsuccessful applications for permit to hold an assembly

In an increasing number of cases officials denied permits under the pretext that the places indicated by the applicants have been reserved for other public events. In reality no such events take place. An example of this tactic is a refusal to allow the Movement of Dissent to hold a rally at an Astana square because a youth comedy show was scheduled to perform at this place. The show never happened and the square remained empty.

While police presence has become an integral part of all peaceful assemblies, police interference with assemblies declined in 2011. Police interfered with 7.4 percent of assemblies in 2011 compared to almost 30 percent in 2010. Examples of interference include police blocking a group of about 100 protesters who tried to march to the Nur Otan headquarters during the 17 December meeting to pay tribute to Zhanaozen victims. Police prevented the protesters from marching, detained over 10 activists and held them at the local police station until the end of the day. One of the participants was tried by the administrative court and sentenced to 15 days of imprisonment.

Police interfered in some form or another with all four of the rallies organized by the Movement of Dissent. In some cases rally participants were prevented from entering the area reserved for an

assembly, in others police dispersed the assembly, arrested the most prominent activists and opposition leaders.

Other cases of police interference included the following:

- On 20 December four activists who attempted to display posters calling to accelerate the amnesty for human rights defender Yevgeny Zhovtis were detained at the Almaty park and brought to the local police station. Detainees were requested to write a statement explaining their actions.
- On 1 July five members of Rukh Pen Til youth club were arrested in Almaty for organizing a picket to protest Kazakhstan's entry into a Customs Union with Russian and Belarus.
- 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 to administrative arrest.

The incidence of protesters being fined or arrested also declined significantly in 2011. In 2010, courts imposed administrative penalties on 33 percent of the organizers of public assemblies, compared to six percent in 2011. 14 activists were arrested and served various sentences for participating in public assemblies:

- Leader of Rukh Pen Til Zhanbolat Mamai has been convicted for taking part in the Zhanaozen meeting and sentenced to 10 days of arrest by the Aktau court;
- Three participants of the picket at the Nur Otan office were convicted on 17 August in Almaty and sentenced to varying sentences, including 14 days of arrest for Zhanna Baytelova, and 5 days for Arman Ozhaubaev and Dmitry Tikhonov.
- One of the leaders of Zhanaozen strikes Akzhanat Aminov was given a suspended sentence of 1 year for organizing unauthorized rallies.
- Lawyer of Zhanaozen strikers Natalya Sokolova was sentenced to six years of imprisonment with one of the charges relating to organization of unauthorized assemblies.
- On 17 December Serik Sapargali, the People' Front activist, has been sentenced to 15 days of administrative arrest in Almaty for his participation in a march to the Nur Otan office.
- Leaders of the Movement of Dissent politicians and civil society activists Bulat Abilov, Amirzhan Kossanov, Kairat Yerdebaev, Bakhytzhana Toregozhina, Larissa Boyar and Kanat Ibragimov were sentenced to 15 days of administrative arrest for organizing unauthorized assemblies.

Public prosecutors also appeared more restrained in 2011, compared to 2010. In 2011, 93 percent of all unauthorized assemblies took place without a prosecutor warning protestors that holding an unauthorized assembly is a violation, whereas prosecutors issued warnings at the majority of unauthorized assemblies in 2010.

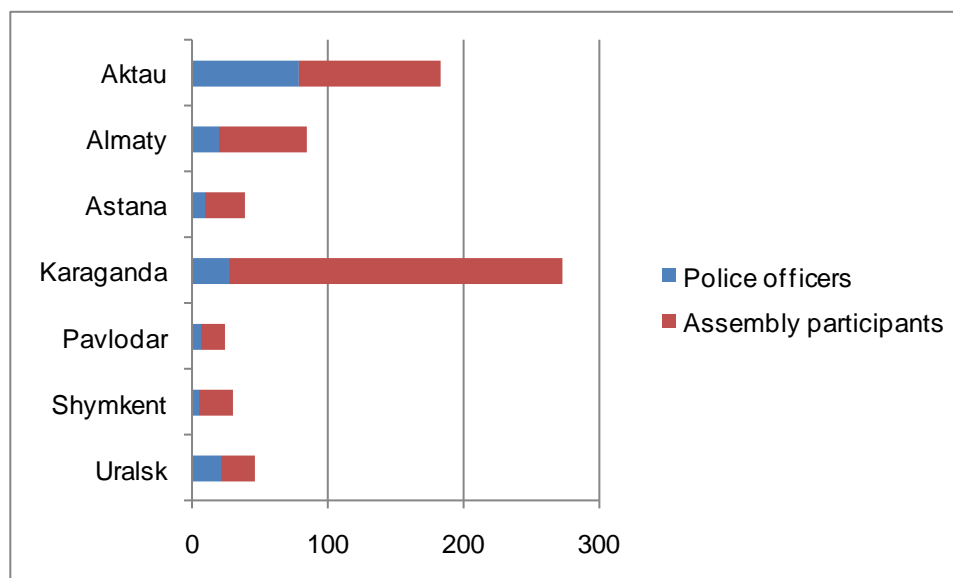
A heavy police presence was observed at all forms of public assemblies during the reporting period. A police squad on the average consisting of 5 to 15 policemen in uniformed or civilian clothes attended all public assemblies concerning political issues. The average ratio for police presence at the assemblies observed throughout Kazakhstan was one police officer for each assembly participant.

A heavy police presence was observed: an average of one officer per two assembly participants.

Uralsk leads the police presence rating with the highest average of one police officer to two protesters. Almaty and Astana assemblies follow with police presence ratio of one police officers to three participants.

Police presence in Aktau assemblies was much lower prior to Zhanaozen events. In the eleven months of 2011 the average assembly was held in presence of one police officer per ten activists. After December shootings of Zhanaozen protesters police presence at Aktau assemblies increased dramatically with fifteen police officers for every ten participants.

Ratio of police officers present to the number of assembly participants



Unfortunately, it is not possible to track the changes in police presence over the previous years due to unavailability of data.

Overall, apart from the few exceptions, authorities limited their interference with the assemblies, probably because past experience has shown that attempts to crack down on public protest entails higher political risk for the government than for the protesters. 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.

As a consequence, 2011 saw less interference with opposition assemblies, mass arrests or trials of opposition leaders. The exceptions are the dispersal of demonstrations by oil workers in Zhanaozen and Aktau in May, dispersal of demonstration held by Kazakhstan Socialist Movement on 1 May in Almaty and interference with the rallies organized by the Movement of the Dissent.

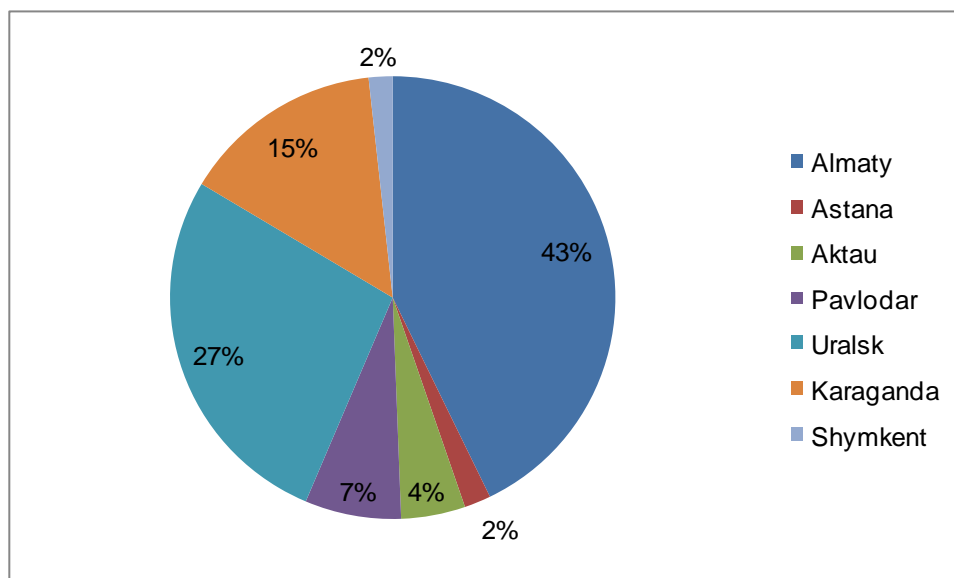
In practice, both the public and the authorities tend to ignore the law on peaceful assembly. Authorities are overlooking the fact that 91 percent of all assemblies are not authorized; and 95 percent of the time, prosecutors are ignoring their obligation to warn the protesters.

Authorities may have adopted a more liberal attitude toward unauthorized assemblies to avoid creating problems, limiting widespread interference to specific protests where political risks or danger of escalation run high. However, law enforcement continues and 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 reporting period, a total of 10,060 people attended the peaceful assemblies throughout the country. (This total excludes a large assembly that was organized by the city administration in Pavlodar, with coerced attendance by 1.5 thousand people).

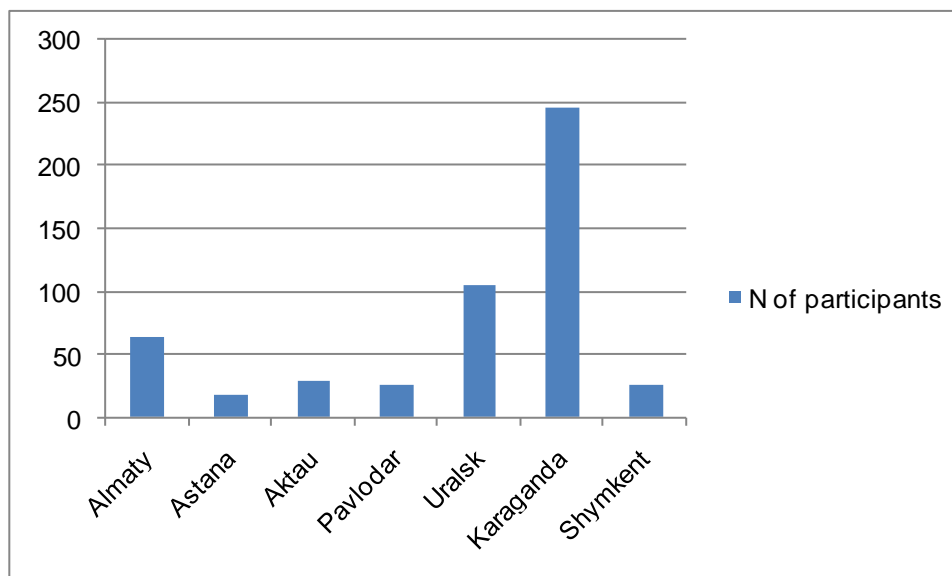
Participation in public assemblies by the city
Total N= 10,060



The largest assembly, which more than one thousand people attended, was organized by the political opposition in Almaty. Events organized by political parties on average attracted anywhere from 30 to 100 people. NGOs and civil society groups held small-scale assemblies involving up to 10 participants and many protests were staged by individuals.

Average size of a public assembly during the reporting period stands at 62 participants.

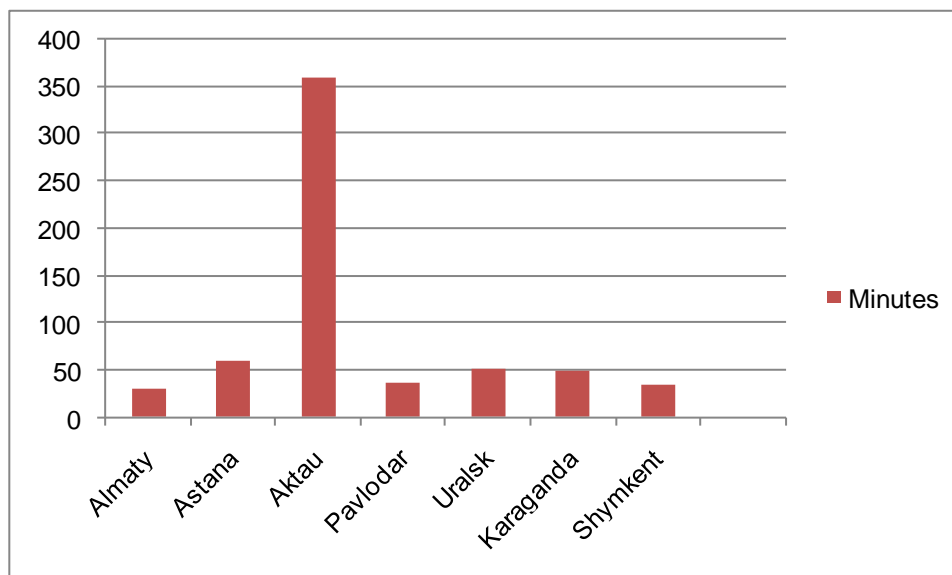
Average attendance of a public assembly by the city



Attendance of public assemblies was not monitored in detail in 2010, but the data available for March is indicative of the average size of public assemblies in 2010, which is approximately 22 participants. Thus, attendance of public assemblies increased almost threefold in 2011-2012.

Duration of public assemblies has also increased. Rallies of strikers in West Kazakhstan often continued for days in a row. In other regions average public assembly continued for about 40 minutes.

Average duration of a public assembly by the city



III. Conclusions

1. Results of the KIBHR monitoring demonstrate that freedom of assembly has been severely restricted in Kazakhstan during the reporting period.

Kazakhstan's legal framework and practices infringe upon the right of citizens to peaceful assembly and freedom of expression. Authorities impose arbitrary restrictions when issuing permits to hold an assembly and severely limit protest aimed at criticizing the government or official policies. Exercise of right to peaceful assembly largely depends on the political loyalty of assembly organizers and their compliance with a range of official regulations that are used to undermine mass appeal of a public assembly.

2. The number of public assemblies increased over the reporting period, with more protesting against employers and against the government. The almost twofold increase in number of assemblies is indicative of growing social tension.

3. Majority of assemblies were held without official permits. Organizers deliberately ignored the legal provisions requiring them to obtain such a permit. This indicates that restrictive regulations are no longer valid and need to be revoked.

4. Majority of assemblies remained small in size and had low public impact. This means that as in previous years opposition failed to secure wide-scale support from the general public.

5. An increasing number of spontaneous protests against socio-economic issues had involved rank-and-file citizens who, up to now, had avoided any political activity. Their readiness to take more active stance in spite of government's restrictions indicates a possibility for unpredictable escalation of protest that might lead to violent retaliation by the authorities.

6. Authorities generally preferred not to interfere with the unsanctioned public assemblies. This can be viewed as a sign that the government chose to downplay the instances of public protest that posed no risk to the political regime. In fact, authorities have used small size of opposition assemblies to point out that opposition has little support.

7. While authorities generally allowed unauthorized assemblies, they imposed stringent security measures. This included deploying large police squads able to forcibly end a protest should it get out of control.