

REPORT

on Freedom of Peaceful Assembly in Kazakhstan in 2016





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From the authors

The Kazakhstan International Bureau for Human Rights and the Rule of Law has been monitoring Kazakhstan's observance of the right to peaceful assembly continuously since its establishment and systemically since 2010.

The main objective of these efforts is to study the law-enforcement practices relating to the right to peaceful assembly in Kazakhstan, by observing directly the peaceful assemblies held in the country and collecting information from their participants or through publications in the media and social networking services.

Observations cover, as far as possible, all regions of Kazakhstan. Direct observations include information provided by representative offices of the Bureau for Human Rights, assembly participants, the media and social networking services. It is possible, however, that some small public protests were omitted from this report.

The monitoring mechanism records citizens' peaceful assemblies using standard parameters. In particular, it collects quantitative data and determines issues raised at assemblies, the degree of their lawfulness, authorities' reaction, and the consequences for their organisers and participants if the assemblies were unauthorised. The results are presented against data for previous years for the sake of comparative analysis and help to understand how the situation with the right to peaceful assembly evolves in Kazakhstan.

The observation and data collection processes involve the use of observation charts, which, when filled in, are regarded as primary documents to produce summarised statistics and carry out an analysis. In other instances, charts are filled in using information from the media and social networking services, with details checked as far as and where possible.

This report presents the results of monitoring conducted from 1 January to 31 December 2016.

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Introduction

After striking oil workers were shot in Zhanaozen and Shetpe, people in Kazakhstan understood the danger of the possible reaction from the government and, as a result, the number of peaceful protests dropped significantly. This tendency continued in 2016. At the same time, the challenges faced by the country have not diminished in any way, while dialogue between the government and people has been lost because of the lack of political opposition and independent media, and as a result of the actual prohibition of peaceful assemblies. However, one cannot say that protests have discontinued for good. There is another tendency at the moment: protests have become more spontaneous and acquire different forms (such as, for example, public suicides or violence against government officials, although not covered by this report). This reflects the government's policy of understating the current problems, oppressing civic engagement, and eliminating communication between the public and the government.

In 2016, the monitoring procedure envisioned that a monitor is present at the location where a peaceful assembly is held to make video records (provid-

ed that it is held in a region where the Bureau for Human Rights has a branch and is not spontaneous). In the regions where no monitors were present, information was obtained from the media, social networking services and through communication with the participants. In both instances, the technique for data collection was standardised. It included, in particular, the following records: location, form of assembly, organisers (if any), issues raised, number of participants, duration, visual materials (posters, banners, flyers, etc.), and the presence of prosecutors' offices' and the police and their actions. In addition, in some instances monitors continued to make observations during the trials of assemblies' organisers and participants, as well as those who had allegedly organised or participated in them (when trials were held in the regions where the Bureau for Human Rights has offices and were not closed to the public in violation of the laws of Kazakhstan). A monitor was to obtain oral information about whether an assembly was permitted or, if not, the causes for not permitting it. All this information was recorded in observation charts used as the primary source of information for this report.



Laws

The procedure for holding peaceful assemblies in Kazakhstan is governed by three laws and one bylaw:

Constitution of Kazakhstan. Article 32. “Citizens of the Republic of Kazakhstan shall have the right to peacefully and without arms assemble, hold meetings, rallies and demonstrations, street processions and pickets. The use of this right may be restricted by law in the interests of state security, public order, protection of health, rights and freedoms of other persons.”

International Covenant on Civil and Political Rights (in accordance with the Constitution of Kazakhstan, this law applies directly and prevails over the laws of Kazakhstan). Article 21. “The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

Law 2126 of Kazakhstan dated 17 March 1995, On the Procedure for Organising and Holding Peaceful Assemblies, Meetings, Street Processions, Pickets and Demonstrations in the Republic of Kazakhstan.

Resolutions by city and oblast maslikhats (local representative agencies) to provide special places to hold a peaceful assembly (in the form of recommendations).

The punishments for breaching the Law on Peaceful Assembly are envisioned by:

- Code on Administrative Offences (Article 488)

Violations of the laws of the Republic of Kazakhstan on the procedure for organising or holding an assembly, rally, street procession, picket, demonstration or another public event, or hindering their organisation, or holding or participating in unlawful assemblies, rallies, street processions, demonstrations or other public events, unless such actions do not have signs of a criminal offence shall be subject to a caution or a fine of twenty-five monthly calculation indices for individuals, or a fine of fifty monthly calculation indices or an arrest for up to ten days for officials.

The provision by heads or other officials of organisations to the participants in an unauthorised assembly, rally, picket, demonstration or another public event of premises or other property (communication technology, copiers, equipment, transport) or the creation by them of other conditions for the organisation and holding of such events shall be subject to a fine of twenty-five monthly calculation indices.

The actions described in the first and second parts of this article, if committed again over a year after the administrative fine had been imposed on an organiser of an assembly, rally, street procession or demonstration shall be subject to a fine of fifty monthly calculation indices or an administrative arrest for up to fifteen days.



- Penal Code of Kazakhstan (Article 400)

Violation of the procedure for organising and holding assemblies, rallies, pickets, street processions and demonstrations

The organisation, holding of, or participation in, an illegal assembly, rally, street procession, picket, demonstration or another illegal public event, as well as rendering assistance to the organisation or holding of such events by providing premises, communication technology, equipment or transport, if such actions have caused material damage to the rights and legal interests of citizens or organisations, or the legally protected interests of society or the state, shall be punished by a fine of up to three hundred monthly calculation indices or correctional work for the same value, or community service for up to two hundred and forty hours, or an arrest for up to seventy-five days.



Overall monitoring results

Over the period of this monitoring, from January to December 2016, peaceful assemblies took place in 15 cities and towns of Kazakhstan (Table 1).

The total number of assemblies was 52. In 2015, 71 peaceful assemblies took place in ten cities and towns of Kazakhstan covered by monitoring efforts. Therefore, the number of peaceful assemblies held in Kazakhstan in 2016 was 27.1% less than the year before. This continues the decline in public protests since 2012 after violence was used against protesters in Zhanaozen and Shetpe in late 2011. The decline could be deeper, but the attempted land reform provoked protests all over the country, which have significantly affected the data presented in this report, as well as the political situation in the country as a whole.

Number of peaceful assemblies in 2016

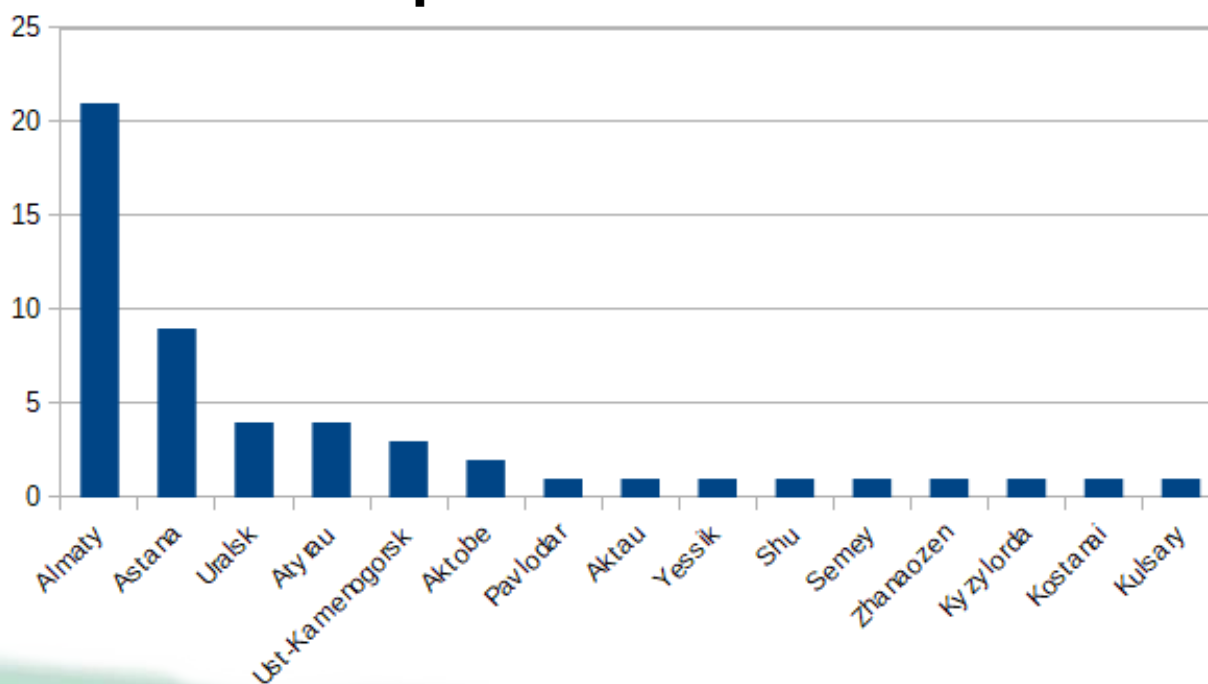


Table 1. Number of peaceful assemblies in 2016

Almaty*	21 (40%)
Astana	9 (17%)
Uralsk	4 (7,5%)
Atyrau	4 (7,5%)
Ust-Kamenogorsk	3 (6%)
Aktobe	2 (4%)
Pavlodar	1 (2%)
Aktau	1 (2%)
Yessik	1 (2%)
Shu	1 (2%)
Semey	1 (2%)
Zhanaozen	1 (2%)
Kyzylorda	1 (2%)
Kostanai	1 (2%)
Kulsary	1 (2%)
TOTAL	52 (100%)

Note:

One of the assemblies in Almaty had three parts, but all of them took place on the same day, with the same participants and around the same concern. For this reason, they were counted as one assembly. The other two assemblies in Almaty and one in each of Uralsk, Aktau, Kostanai and Pavlodar were cancelled because of counteraction on the part of the police. However, since the police took measures to break up those assemblies and detain people, some of whom were later prosecuted as if the assembly had taken place, these assemblies were included in monitoring data.



Protest activity engagement (quantitative data)

The obtained data helps to describe protest activity in each of the regions where peaceful assemblies took place and in the country as a whole (with previous data taken into account).

The protest activity index measures the number of peaceful assemblies held per unit of time (one month). In other words, it determines the number of peaceful assemblies within a month.

The table below lists “protest activity indices” for the covered regions and the country as a whole.

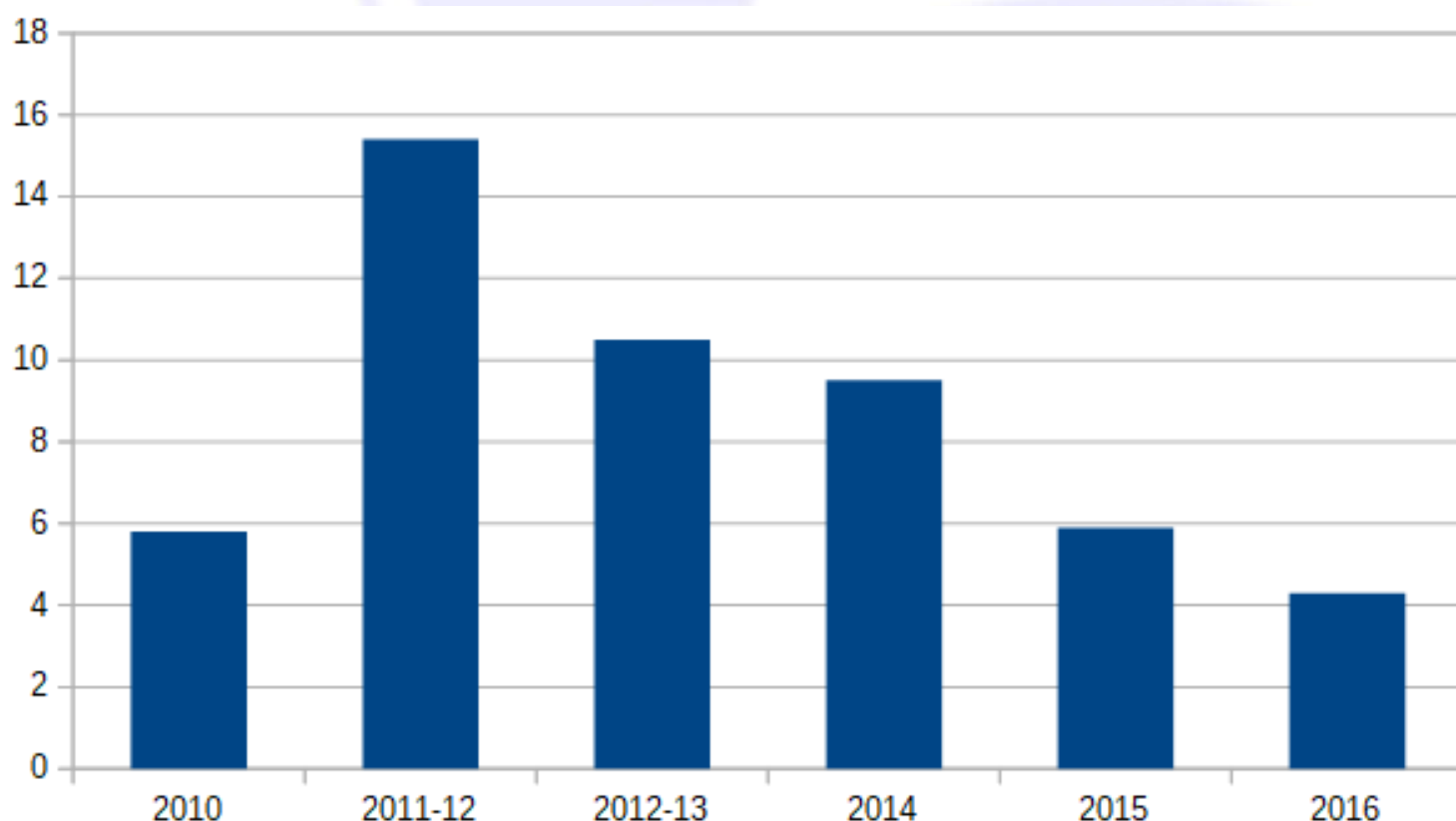
Table 2. Protest activity index, by year and city/town

	2010	2011-12	2012-13	2014	2015	2016
Almaty	4,0	6,4	4,0	3,5	2,4	1,7
Astana	0,6	1,5	2,3	3,1	1,8	0,7
Uralsk	0,2	2,6	2,8	1,2	0,75	0,3
Karaganda	0,4	0,6	0,5	0,4	0,1	-
Aktau	-	2,4	0,5	0,1	0,1	0,1
Pavlodar	0,1	6,4	4,0	0,17	0,1	0,1
Ust-Kamenogorsk	0,2		0,17	0,1		0,25
Taldykorgan					0,17	
Aktobe				0,25	0,1	0,17
Atyrau				0,17	0,33	0,33
Shymkent			0,17		0,1	
Kostanai				0,1		0,08
Zhezkazgan					0,17	
Yessik						0,08
Shu						0,08
Semey						0,08
Zhanaozen						0,08
Kyzylorda						0,08
Overall index	5,8	15,4	10,5	9,5	5,9	4,3

In 2016, Kazakhstan had 4.3 peaceful assemblies a month on average, while in the previous five years this rate was higher, although not all cities and towns were covered by monitoring efforts (the record high was in 2011 because of oil workers' strikes in the western regions). It should be noted that, as shown below, 19 assemblies raised the same concern (land reform), and one of them was against the conviction of the leaders who had organised such protest in Aktau. This is to say that 38.5% of peaceful assemblies in Kazakhstan were concerned with the same topic and this had a significant effect on monitoring results.

The highest activity was recorded in Almaty (21 peaceful assemblies, or 40% of all assemblies in Kazakhstan). In Astana, it was lower, with nine assemblies, or 17% of the total, down 41% year-on-year (22 assemblies in 2015). The third largest number of assemblies was recorded in Atyrau and Uralsk (four in each of the cities). In Atyrau, activity fell by 44%, while in Uralsk it did not change. Ust-Kamenogorsk saw some growth in civic engagement. In 2016, three peaceful assemblies took place there (organised by the same two persons), while there was none the year before. Other cities and towns either had one to two assemblies a year or none (Table 1).

Concerns raised at peaceful assemblies (qualitative data)



Concerns raised at peaceful assemblies (qualitative data)

For the purposes of our analysis, we classify peaceful assemblies by three groups: political, economic and social.

Political assemblies are those that criticise the government, express political disloyalty, protest against the authorities, demand to release politicians and civil society activists from trials or prisons, and criticise policies and political figures of other countries.

Economic assemblies are those concerning relationships with employers, unit holding in housing construction, mortgages, housing issues, banking or utilities.

Social assemblies are those concerning all types of social problems such as legal proceedings, actions by law-enforcement agencies, environmental protection, particular social groups, or sociocultural issues.

Since 2010, there has been a stable tendency towards depoliticisation of peaceful assemblies in Kazakhstan (Table3). In 2016, there was an increase in political assemblies (one of which criticised the current president), and 19 social assemblies also voiced political demands.

While in 2010 some 40% of all assemblies were political, after that the political component has declined. There were some changes in 2016, however. A total of 15.5% of all protests included political demands and, most importantly, they were the so-called “land protests.” The country saw a number of rallies and single protests against the land reform that allowed foreigners to buy land. Monitors recorded 19 such protests (36.5% of all assemblies held or attempted). Although the protesters’ demands related the social sphere (the inadmissibility of selling land to foreigners), they also protested against amendments to the Land Code and, in some cases, demanded that President Nazarbayev resign. It is evident, therefore, that although the protesters sought to abolish amendments to the Land Code (a social demand), they often wanted to claim more.

Prevailing concerns voiced at peaceful assemblies:

Political: abolishing amendments to the Land Code that permit foreigners to buy land, and releasing civil society activists or politicians from prisons or discontinuing trials against them.

Economic: unitholders or mortgagors' demands for banks.

Social: land reform; unfair trials, or actions or inaction by investigation agencies, as seen by the protesters.

It should be noted that all protests (except for one environmental protest in Almaty with the participation of several activists from the All-Nation Social Democratic Party) did not involve political parties or political opposition. All the initiatives were those of small groups or separate persons. In some instances (land protests), it was difficult to identify organisers.

Table 3. Concerns raised at peaceful assemblies by year

	Political	Economic	Social
2010 год	40%	53%	7%
2011-2012 год	9%	58%	33%
2012 -2013 год	(1 assembly)	70%	29%
2014 год	-	49%	51%
2015 год	-	45%	55%
2016 год	15.5%	15.5%	69%

Concerns raised at peaceful assemblies by year

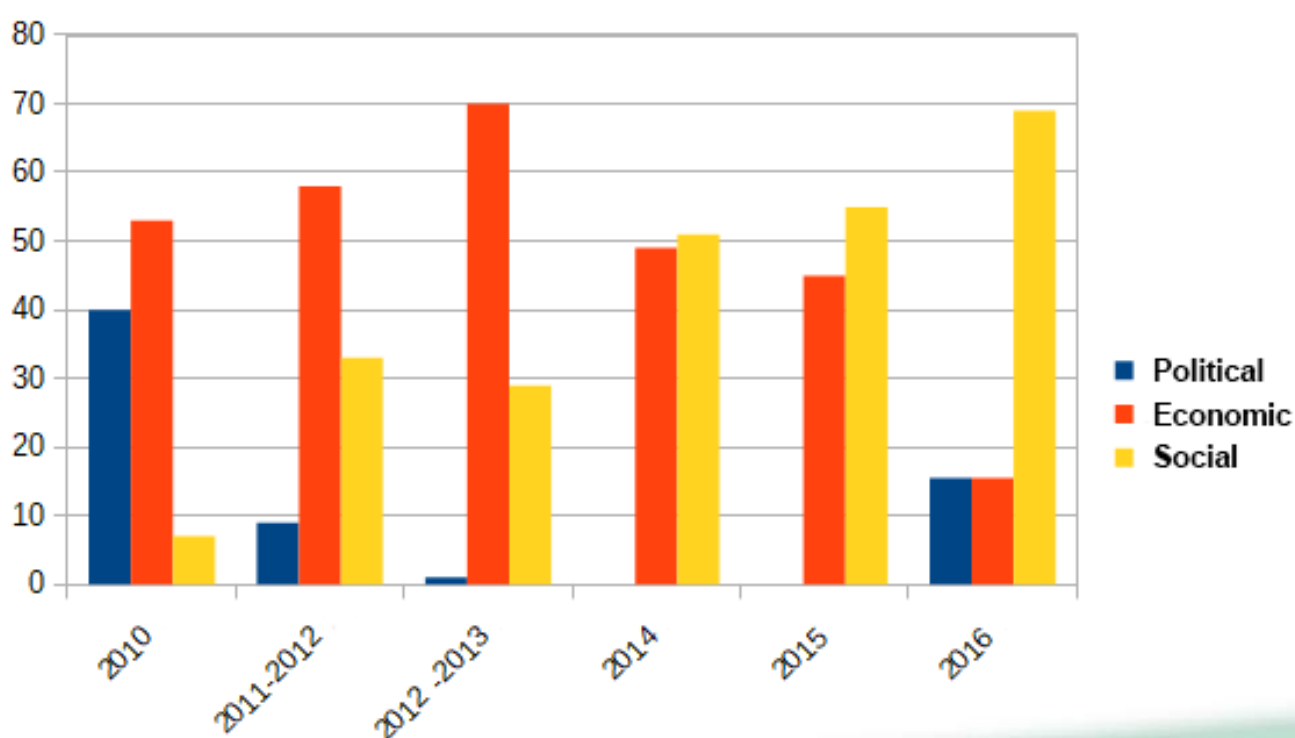


Table 4. Main concerns raised at peaceful assemblies in 2016 and their number

Concern	Quantity
POLITICAL	
Release of political prisoners, protests against political prosecution and imprisonment of government officials	5
Against the U.S.'s alleged support for "land protests"	1
Against the president's cult of personality	1
Dedicated to the memory of Zhanaozen and Shetpe victims	1
	8
ECONOMIC	
Problems of unitholders and mortgagors	6
Onay payment system in public transport	1
Against new veterinary certificates	1
	8
SOCIAL	
Land reform	19
Legal proceedings	4
Actions or inaction by the police	4
Animal protection	3
Against dispossessions	3
Against domestic violence and for the protection of women	2
Against transferring national parks to the private sector	1
	36
TOTAL	52

In 2016, the most active groups were the movement of mortgagors titled Let's Provide People with Housing (an alternative to a more radical and disloyal movement Let's Leave Housing with People, which discontinued its work) – 5 protests; the Spravedlivost (Fairness) civic initiative from Almaty (the participants were those who had suffered from judicial arbitrariness) – 2 protests; and the KazFem feminist initiative – 2 protests. In addition, three organisations for animal protection held one protest each.

On the other hand, the land protests have demonstrated that, when the public has a significant concern, several initiators can bring together hundreds or even a thousand or three thousand of unrelated people at one place. Citizens are also capable of self-organisation using social media and messengers. The largest assemblies in Kazakhstan were arranged that way in Atyrau, Semey, Aktobe, and Almaty. Despite many detentions, fines and administrative arrests, as well as criminal charges brought against some activists, the protests have forced President Nazarbayev to declare a moratorium on the amendments.

It should be said that multiple protests by mortgagors and unitholders in past years have also resulted in that the government began to solve the problems of these groups. A notable fact, however, is that the persons whose problems are being solved stop to take part in peaceful assemblies arranged by their former companions.

Finally, compared with the previous year, the activity of civil society organisations in arranging public protests grew insignificantly, to 29% (15 assemblies), while in 2015 it was 18% (42% in 2014).



The protests against amendments to the Land Code began on 20 April 2016 and subsided after President Nazarbayev declared on 5 May his moratorium on the amendments. Over twenty protests, bringing together between one and two and a half thousand people, took place in Kazakhstan. All protests were peaceful and ended without police interventions (except in Kyzylorda, Aktau and Almaty). Moreover, in some towns such as Atyrau, Zhanaozen and Uralsk, local authorities (akims and their deputies) expressed their willingness for dialogue with people.

On 21 May 2016, people in several cities and towns of Kazakhstan planned to protest against amendments to the Land Code that increased the tenure for foreigners and allow them to purchase another 7.14 million hectares of land. The law-enforcement agencies used several means to prevent the assemblies. In Astana, Almaty and Uralsk, three civil society activists were arrested before the protests for having allegedly committed criminal offences. In Atyrau, eight persons were detained for having purportedly propagated or called publicly for the seizure or retention of power. In Almaty and Uralsk, the police detained more than ten civil society activists on the eve of 21 May, who were later sentenced to administrative arrests of various duration.

On 21 May, despite governmental threats and prohibitions, there were attempts to hold rallies in Astana, Almaty, Uralsk, Kostanai, and Pavlodar. The largest gathering, over one thousand people, took place in Almaty. Around one hundred people came to the rally in Uralsk, and between 20 and 50 in other cities. In all the instances the police blocked access to the public places where the rallies had been planned. The police detained between 800 and 1,200 people (according to different sources) in Al-

maty and almost all the participants in the rally in Uralsk. Detentions also took place in Kostanai, Astana, and Pavlodar. According to the Karaganda Oblast Branch of the Bureau for Human Rights, up to 40 people were preventively detained in that region, but all of them were released on the same day. In addition, over 50 journalists were detained in Almaty, Astana, and Uralsk.

The same day Periscope, Facebook, Google, and YouTube were blocked in Almaty. The websites of Kazakhstan's Radio Liberty/Radio Free Europe (azattyq.org) and the Uralskaya Nedelya newspaper were also blocked.

The West Kazakhstan Oblast Department for Internal Affairs announced that mass commotions had been prevented in Uralsk.

According to official data, 51 persons appeared before courts on that day, of which four were sentenced to administrative arrests, 13 to fines, and 34 got cautions, the Ministry for Internal Affairs reported.

On 30 May, Russia's REN-TV channel broadcast the Military Secret programme telling about the attempts to organise "Maidan" in Kazakhstan, with the West and Kazakh nationalists allegedly standing behind the protests. Earlier, Russia's 1 Channel Eurasia in Kazakhstan broadcast two news that the land protests had been allegedly paid for by "certain forces."

On 8 June, President Nazarbayev said, "We all know that the so-called "colour revolutions" have different methods and begin with fake rallies, murders, the desire to seize power. These signs have appeared in our country, too [...] The government will take additional measures to resist those who try to destabilise our society and our country. We will give it a special consideration and sum up."



Types of peaceful assemblies (qualitative data)

The most popular, “conventional” types of peaceful assemblies were rallies and pickets, including single protests.

Single pickets: in accordance with the Law on Peaceful Assemblies, a peaceful assembly may only be arranged by a group of citizens or an organisation. The law does not mention a single picket as a form of protest. This is one of the reasons why each time local authorities and law-enforcement agencies in different cities have different approaches to single protesters. In some cities, protesters are required to obtain a permit from the local executive body, as if a protest were arranged by a group of citizens, while in other cities they may be treated leniently (this also depends on the issues raised at a picket).

Compared with previous years, “non-conventional” types of disagreement, such as street processions, happenings and roadblocks, became more popular.

Happenings: This type of events lets its participants attract additional attention from the media, because of the unconventional expression of the protest, and, at the same time, misguide the police, prosecutors’ offices and local authorities, as the Law on Peaceful Assemblies does not mention it and it is not always possible to understand what is taking place – a protest or an art performance.

Roadblocks usually occur spontaneously (only one of the four cases was planned), driven by the importance of the current problem (for example, a threat of dispossession).

Table 5. Types of peaceful assemblies in 2016

Rally	Picket	Single picket	Happening	Procession	Roadblock	Enchainment
21 (38%)	10 (19%)	9 (16%)	6 (11%)	4 (7%)	4 (7%)	1 (2%)
TOTAL						55 (100%)*

* Some peaceful assemblies changed their form during their conduct or included several parts.





Keeping with the fearful practices of previous years, Kazakhstan's citizens who had failed to obtain justice by means of law or peaceful protests, continued to commit public suicides to attract the attention of the media. This has become a frightening form of protest typical of this country of the Central Asian region.

- *On 6 December 2016, on the Prosecutor's Day, Maira Rysmanova set herself on fire near the building of the Prosecutor General's Office in Astana to protest against a sentence passed for her son.*
- *The same month, Nurken Ainabekov was brought to a hospital in Shymkent with severe burns after an act of self-immolation he had committed near the Oblast Prosecutor's Office. The reason for his attempted suicide was that his firm had completed a public procurement order for the construction of an outpatient clinic in Shymkent, but had not been paid.*
- *In June, a resident of Astana barricaded himself in his private house with a gas cylinder and threatened to blow the house up. He disagreed with the amount of compensation offered for the house, which was to be demolished because of road construction. After hours of negotiations, he came to terms with the local authorities and abandoned his plan. Several weeks later, the man was paid compensation.*
- *On 17 March, a law-enforcement agency in South Kazakhstan Oblast prevented self-immolation by a candidate to the oblast maslikhat.*
- *On 25 February, a 29-year-old man attempted to set himself on fire using gasoline near the Atyrau Oblast Court building.*

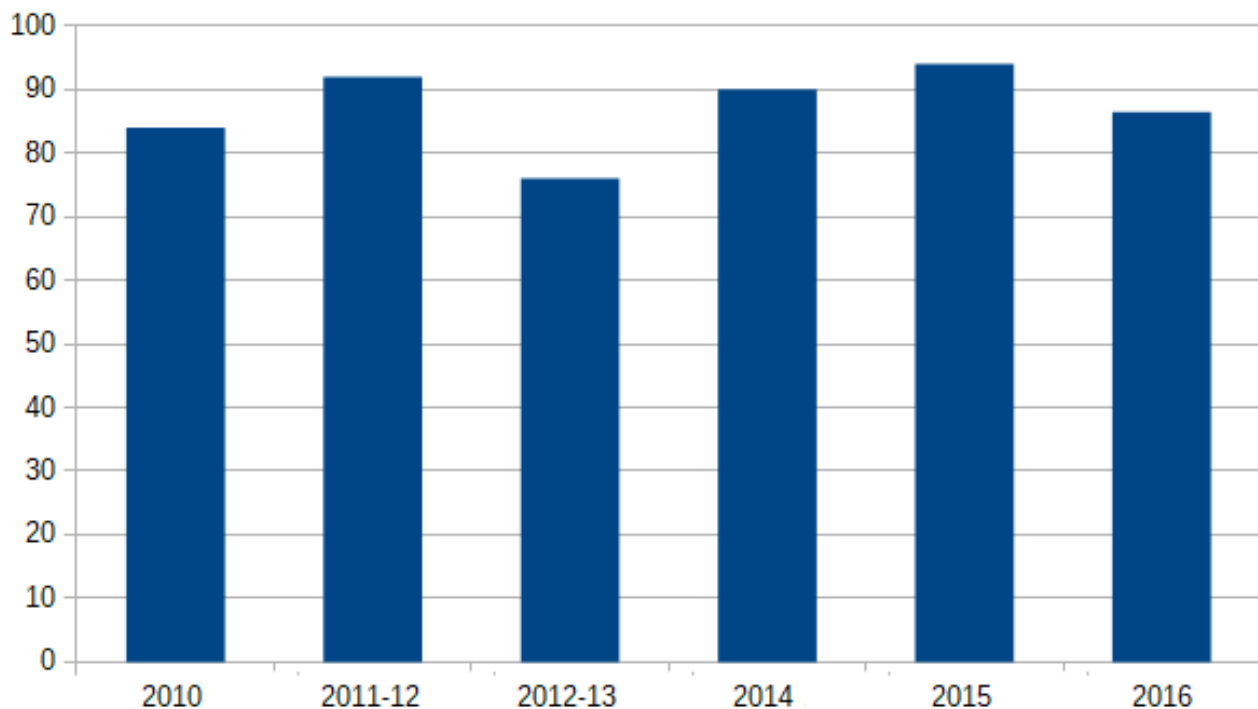
Citizens' abidance by law during peaceful assemblies

In accordance with the current laws, to hold a peaceful assembly, Kazakhstan's citizens need to obtain a permit from local executive bodies. As a result of this procedure, a permit must be issued or denied within five days from the application date. The application should be filed not later than ten days before the planned assembly.

Most of the citizens who arrange public protests usually ignore this requirement and this leads to conflicts with the authorities. Table 6 provides comparative data on unpermitted rallies held in recent years.

Table 6. Number of unpermitted peaceful assemblies (percentage)

2010	2011-12	2012-13	2014	2015	2016
84%	92%	76%	90%	94%	86,5%



Six years of monitoring peaceful assemblies in Kazakhstan have shown that the overwhelming majority of protests here were held without authorisation. This happened year after year and it can be said that the law does not work in fact. Data suggests that the law is very selective and only applies when the authorities either don't want to permit a protest or want to punish its organisers and participants. In this case, executive bodies or the police resort to repressions or create different obstacles, including the forced dispersal of protests and the arrests of activists. Punishments may also apply such as serious administrative fines and arrests for up to 15 days. In other, rare, instances, the authorities usually do not react to protests at all, or their reaction remains purely formal.

In 2016, out of the recorded 52 peaceful assemblies, five were held in strict conformity to law, with the permission from an akimat. Of all the protests, applications for permits were submitted in eight cases only. Three of them were rejected, but the assemblies took place nonetheless. In two instances the assemblies could have been authorised tacitly, as the authorities were interested in holding them (for example, against the U.S.'s alleged intervention in Kazakhstan's domestic affairs). In all other instances, protest organisers preferred not to communicate with the authorities.

Therefore, 90% of all protests were held without a permit, or in violation of the current laws (Table 7).

Table 7. Permitted and unpermitted assemblies in 2016

Total assemblies over the year	52 (100%)
including:	
- permitted by the authorities after an application was filed	6 (11,5%)
- held possibly with a tacit permission	1 (2%)
- unpermitted (including five spontaneous protests)	45 (86,5%)

Monitoring requires that the reasons for citizens' disregard for the Law on Peaceful Assemblies be analysed.

Table 8 lists the reasons for protest organisers' failure to request permits from *akimats*.

Table 8. Reasons for citizens' failure to apply for protest permits

	2010	2011-12	2012-13	2014	2015	2016
As a matter of principle: protesting against the need to obtain a permit to hold peaceful assemblies, or against a prohibition	25%	41%	0%	25%	12%	35,5%
Because of understanding that the protest would not be permitted in any case	55%	42%	32%	31%	27%	24,5%
Didn't think that this form of expressing one's opinion or the format of a protest requires a permit	19%	16%	68%	44%	61%	11%
The assembly was spontaneous	-	-	-	-	-	11%
Unknown	-	-	-	-	-	18%
	100%	100%	100%	100%	100%	100%

An analysis of the dynamics presented in the table allows the following conclusions:

An increasing number of people understand that applying to local executive bodies for a protest permit makes no sense: the assembly will not be permitted for one reason or another, or, in the best case, it will be permitted at a special location in the suburbs of a city or town, or even beyond. This suggests that citizens breach the law knowingly, while the law, in addition to being inoperative, contradicts the Constitution of Kazakhstan, which guarantees its citizens the right to peaceful assemblies.

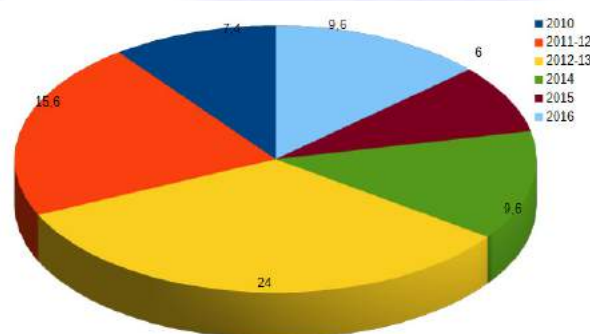
Besides, the appearance of spontaneous assemblies (almost none in previous years) suggests that the ten-day procedure for obtaining a permit made absolutely no sense in these cases.

In addition, in 13% of cases people believed that their actions were not subject to the Law on Peaceful Assemblies, as it provides no definitions or interpretations of happenings, performances, flash mobs, and other forms of peaceful assemblies that border on art.

Monitoring data allows calculating the index of law abidance by citizens when holding peaceful assemblies in Kazakhstan (the indicator shows the percentage of permitted protests among all peaceful assemblies held).

Table 9. Law abidance index

2010	7.4%
2011-2012	15.6%
2012-2013	24.0%
2014	9.6%
2015	6.0%
2016	9.6%



The table below provides statistics on unpermitted assemblies by city/town, with the law abidance index.

Table 10. Law abidance index by city/town in 2016

	Total as-semblies	Unpermitted assemblies	Permitted as-semblies	Unknown	Law abid-ance index
Almaty	21	17	3	1	14%
Astana	9	6	3		33%
Uralsk	4	4			0%
Atyrau	4	4			0%
Ust-Kameno-gorsk	3	3			0%
Aktobe	2	2			0%
Pavlodar	1	1			0%
Aktau	1	1			0%
Yessik	1	1			0%
Shu	1	1			0%
Semey	1	1			0%
Zhanaozen	1	1			0%
Kyzylorda	1	1			0%
Kostanai	1	1			0%
Kulsary	1	1			0%

The number of spontaneous protests (the land reform, the Onay payment system in public transport, new requirements for veterinary certificates, dispossession) was also significantly higher in 2016.

Reaction from akimats, prosecutors' offices and police

The current laws and practices require that, if a peaceful assembly is held without a permit, akimats notify its organisers or participants about the unlawfulness of their actions and propose that the respective public protest is ended. Prosecutors' offices, in turn, must explain to citizens why their actions are unlawful. However, local authorities and prosecutors' offices are very selective in their reaction to public protests. They appear at some assemblies to warn their participants, but do not attend others, or don't interfere. In addition, akimats, prosecutors' offices and the police may warn that a peaceful assembly should be ended (the latter two are, however, not mentioned in the laws as authorised to do so). More often, however, protests are prevented and broke up without any cautions, sometimes even before they begin.

Table 11 presents the cases when local authorities or prosecutors' offices were present at peaceful assemblies and the number of warnings made in 2016.

Table 11. Presence of authorities and cautions made in 2016

	PRESENCE	CAUTION
Prosecutors' offices	12	4
Akimat	5	3
Police	41	5

Percentage of cautions:

Table 12. Cautions by year

2010	2011-12	2012-13	2014	2015	2016
37%	7%	5%	11,6%	17%	23%

Overall, prosecutor's offices and akimats' attention to peaceful assemblies has been growing. This indicator has increased almost fivefold since 2012. It should be noted that whether prosecutors and akimat officials would attend a rally depends on the following factors:

- 1) the presence at a rally of opposition leaders or disloyal activists
- b) the number of protesters
- c) the severity and specificity of criticism against the government
- d) location



Presence of police

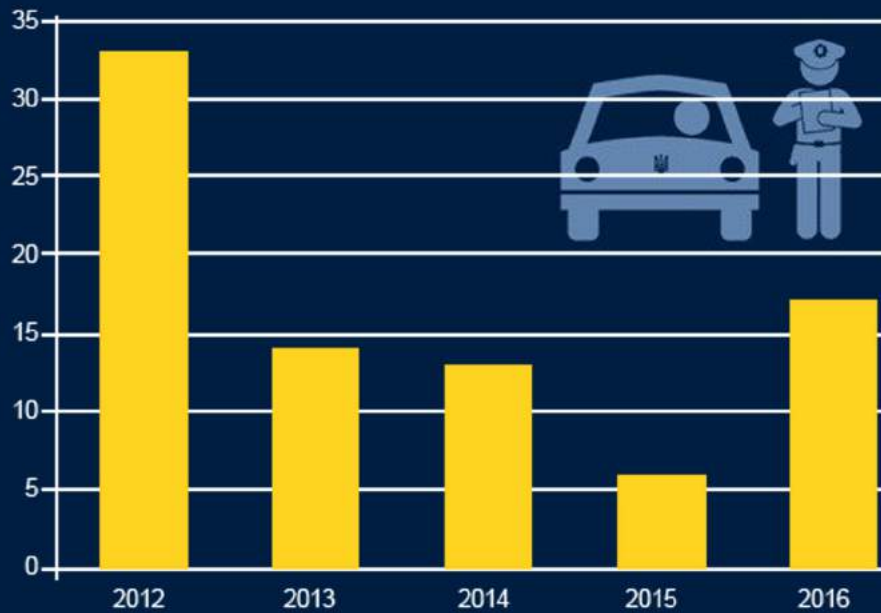
In 2016, 826 police officers were involved in controlling peaceful assemblies.

According to monitoring data, the average number of assembly participants was 116. An average of 16 police officers was present at each assembly, which is approximately one per seven protesters. Table 13 presents this indicator by years of observation. It can be seen that police presence at rallies declined year by year. On the one hand, the number of peaceful assemblies on occasion of sensitive political and social issues, as well as the number of participants in those assemblies was declining over the years, to 2016 inclusively. However, the upsurge of civic activity in 2016 and the increased number of protesters suggest that there are not enough police forces in some cities to maintain the police to protesters ratio at the previous level. In addition, in some instances (rallies in Atyrau and Aktobe), to avoid frustration among people, the governments required that police buses stay at a distance from the place of the rally and, since the events were peaceful and constructive, there was no need to use the police to break them up. At the same time, the peacefulness of assemblies and officials' participation in them do not prevent the authorities from initiating administrative cases against participants ex-post facto.

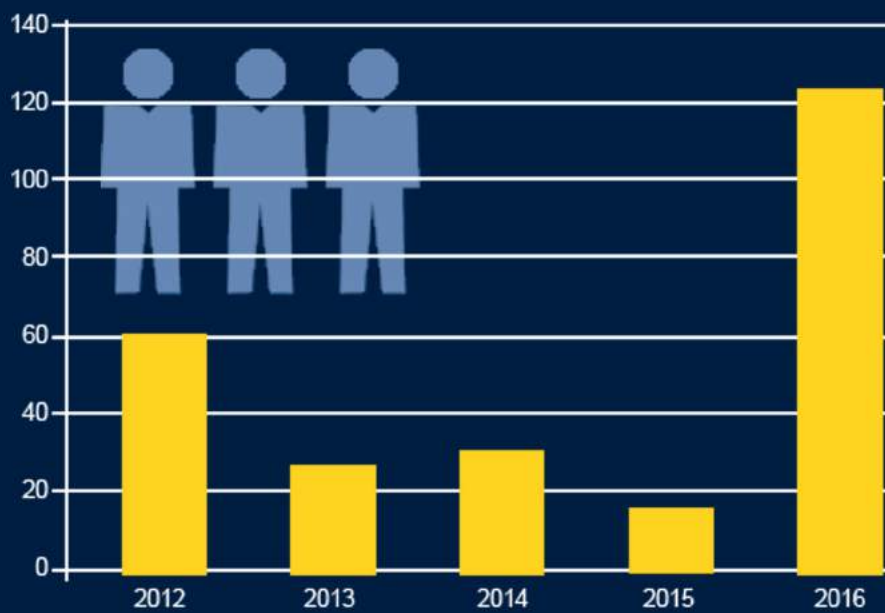
The tables below provide the police control index for the country by year, and for 2016 by city. The police control index represents the police to protesters ratio in peaceful assemblies.

Note: the permissible error in Tables 13 and 14 is 20% since there were many participants as well as police officers (including those remaining in buses or at a distance) in some of the assemblies

Average number of police officers



Average Number of protesters



Police control index

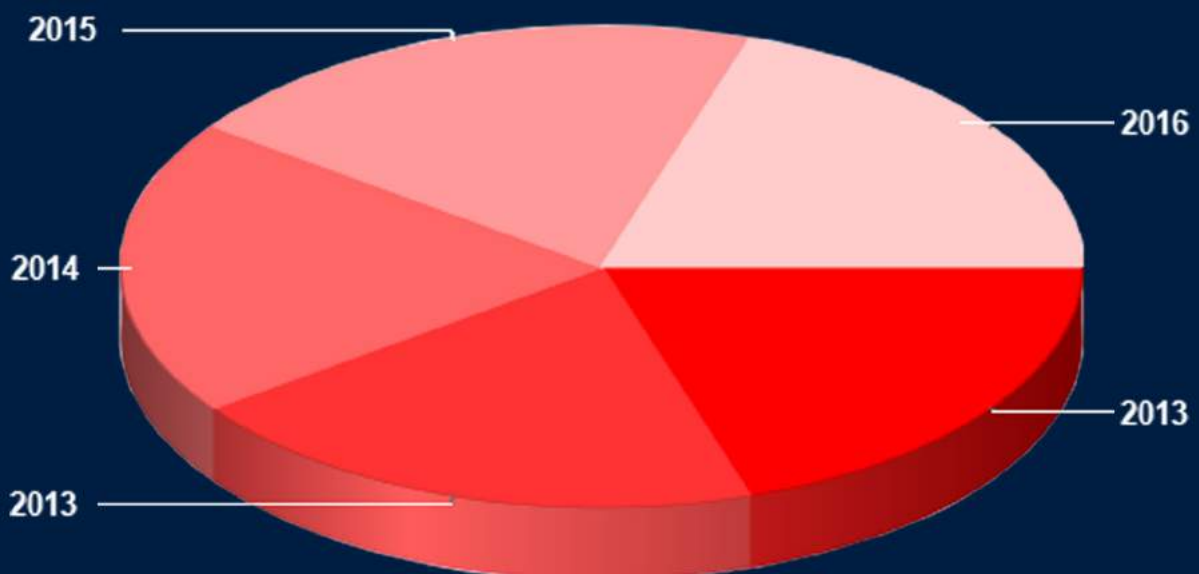


Table 13. Police control index by year

	Average Number of protesters	Average number of police officers	Police control index
2012	62 protesters	33 police officers	0.53
2013	28 protesters	14 police officers	0.50
2014	32 protesters	13 police officers	0.41
2015	17 protesters	6 police officers	0.35
2016	125 protesters	17 police officers	0.14
TOTAL PARTICIPANTS	6500	1460	0,22

Table 14. Police control index in 2016 by city/town

	Average Number of protesters	Average number of police officers	Police control index
Kostanai	22	25	1,14
Uralsk	20	22	1,1
Astana	6	5	0,83
Almaty	50	40	0,8
Aktau	70	50	0,7
Pavlodar	40	25	0,62
Ust-Kamenogorsk	2	1	0,5
Kyzylorda	400	100	0,25
Zhanaozen	70	15	0,21
Atyrau	625	55	0,08
Semey	350	25	0,07
Aktobe	750	15	0,04
Shu	200	8	0,04
Kulsary	100	25	0,01
Yessik	40	0	0





Detentions of participants in peaceful assemblies

In 2016, participants in 18 protests (34.5% of all peaceful assemblies) in Kazakhstan were detained (Table 14). This is more than in 2015 when the percentage of detentions was 28%. In addition, the number of those detained in 2016 was significantly higher.

Table 15. Detentions of participants in peaceful assemblies

	Total detentions	Total detained persons
Almaty*	6 (28,5%)	800-1000
Aktau	1 (100%)	50-60
Uralsk	3 (100%)	50-60
Karaganda**	1 (100%)	40
Astana	4 (44,5%)	22
Kostanai	1 (100%)	12
Zhanaozen	1 (100%)	5
Atyrau	1 (25%)	2
Pavlodar	1 (100%)	1
TOTAL	18 (34,5%)	900-1100

Note:

* There may be an up to 20% error in the calculation of the number of protesters detained in Almaty because many people were detained during the rally held on 21 May 2016.

** In Karaganda, all detentions were made before 21 May.

In Almaty, the police also made preventive detentions three times (without an actual assembly or when attempts were made to organise one). Preventive detentions also took place in Karaganda, Uralsk, Zhanaozen and Astana (one in each of the cities).

In four instances, the police used force to break up assemblies:

Almaty	Kyzylorda	Aktau
2	1	1

Three of the assemblies were entirely peaceful, while in one instance (in Kyzylorda) protesters began to throw stones at the police in response to their actions.



Kazakhstan's police, prosecutors' offices and akimats do not distinguish between protesters and journalists. On 21 May 2016, over 1,000 people, including at least 50 journalists, with foreigners among them, were detained in Almaty, Astana and Uralsk during the attempts to arrange peaceful assemblies. The police used force in some cases and damaged equipment. Some of the journalists were required to delete photographs and videos. Tamara Yeslyamova, editor of the Uralskaya Nedelya independent newspaper, was adjudged to a fine of 100 monthly calculation indices for having photographed detentions on 21 May as part of her job.

On 4 October 2016, in Astana, the police detained three activists from the Slon (Elephant) Animal Protection Fund for an attempt to hold a costumed happening against wearing fur. A journalist of Newtimes.kz was detained with them. All the persons detained were released after having written explanations. The journalist was required to delete videos of protesters' detentions by the police.

Convictions of participants in peaceful assemblies

During the monitoring period, 12 administrative charges were instigated for holding unpermitted protests and one criminal case resulted in the conviction of two activists. This means that 25% of all unpermitted peaceful assemblies ended in courts where their organisers and participants were held liable under Article 488 of the Code of Administrative Procedure (violation of the procedure for holding peaceful assemblies) or other articles of the same code (disorderly conduct, resistance to the police). Also, the number of cases brought to courts as a result of peaceful assemblies grew.

In 2015, for example, nine peaceful assemblies (13%) resulted in charges against their organisers and participants. In addition, in 2016, Article 400 of the Penal Code (violation of the procedure for organising and holding assemblies, rallies, pickets, street processions and demonstrations) was applied for the first time to organisers of a peaceful assembly, although the protest had not had any adverse consequences.

Table 16 provides a breakdown of prosecutions for holding unpermitted protests by city.

Table 16. Administrative measures against participants in peaceful assemblies

	Number of protesters (article 488)	Number of protesters (other administrative charges such as disorderly conduct, resistance to the police, failure to comply with a judgement)	Cautions	Fines	Arrests
Almaty	41*	18	18*	20	21
Aktobe	29			29	
Astana**	2	1			2
Uralsk***	12			3	9
Atyrau	2	1	2	2	1
Pavlodar	1			1	
Shymkent	3				3
Semey	1				1
Akmola Oblast	2				2

Note:

* In Almaty, the exact number of those charged as a result of mass detentions on 16 May is unknown, as they were given cautions one after another.

** In Astana, Tokbergen Abiyev, an organiser of a roadblock protest, was charged with having violated the procedure for holding peaceful assemblies and resisted police.

*** Uralsk deserves special mention. Previously, this city was different from other cities in Kazakhstan in that it had significant civic activity and the local government was relatively tolerant to unpermitted peaceful assemblies. The year of 2016, however, brought cardinal changes and Uralsk's authorities began to use strict punishments and preventive arrests against those who try to exercise their constitutional right.

Overall, at least 26 arrests in the country were preventive, for people's intention to take part in a peaceful assembly or for the publication of information about forthcoming events in social media.

*Table 17. Criminal charges against potential participants in peaceful assemblies
(on the eve of 21 May 2016)*

	Cases instigated	Arrests	Convictions	Comments
Astana	1	1	1	Makhambet Abzhan, a human rights defender, was arrested before the rally on 21 May in Astana. He was charged with having insulted, resisted and used violence against a government official and condemned to two years of restraint.
Uralsk	1	1	1	Zhanat Yessentayev, an activist and signer, was detained in Uralsk before the rally on 21 May for having allegedly incited ethnic hatred. Yessentayev was sentenced to two and a half years of restraint.
Atyrau	8	5	2	Eight activists were arrested in Atyrau on the eve of the rally on 21 May. Five of them were charged with propaganda or public calls for the seizure or retention of power. Charges against the other two protesters, Max Bokayev and Talgat Ayanov, included propaganda or public calls for the seizure or retention of power, violation of the procedure for holding rallies, and incitement of ethnic hatred. Bokayev and Ayanov were sentenced to five years in prison.



General statistics

The total number of people who took part in peaceful assemblies in 2016 increased fivefold year-on-year, to over 6,000. Table 18 provides data on citizens' participation in peaceful assemblies by city/town.

Table 18. Number of participants in peaceful assemblies

	Total people			Average per assembly		
	2014	2015	2016	2014	2015	2016
Almaty	1838	569	1120	43	19,5	53
Astana	541	357	55	14	32	6
Uralsk	441	118	77	31	13	19
Karaganda	159	1		32	1	-
Aktobe	3	1	1500	1	1	750
Atyrau	80	113	2500	40	29	500
Pavlodar	51	70	40	25	70	40
Aktau	6	1	75	-	1	15
Kostanai	2	-	22	-	-	22
Kulsary			100			100
Ust-Kameno-gorsk	2	-	6	-	-	2
Taldykorgan	9	-		4,5	-	-
Yessik			40			40
Shu			200			200
Semey			350			350
Zhanaozen			75			75
Kyzylorda			350			350
ИТОГО	3132	1230	6510	27,5	17	125

Note: Because of the large numbers of participants in peaceful assemblies in Atyrau, Semey, Aktobe and Almaty and during an attempted assembly in Almaty, the error in 2016 may be up to 25%.

As for the duration of peaceful assemblies, the total in 2016 was 43 hours (32 hours in 2015 and 67 hours in 2014).

Table 19 shows the duration of peaceful assemblies by city/town.

Table 19. Duration of peaceful assemblies in 2015 and 2016 by city/town

	Total duration of peaceful assemblies		Average per peaceful assembly	
	2015	2016	2015	2016
Almaty	1586 minutes	1013 minutes	37 minutes	48 minutes
Astana	763 minutes	192 minutes	26 minutes	21 minutes
Uralsk	595 minutes	180 minutes	42 minutes	45 minutes
Karaganda	210 minutes		42 minutes	-
Aktobe	95 minutes	190 minutes	31 minutes	95 minutes
Atyrau	50 minutes	300 minutes	25 minutes	75 minutes
Pavlodar	75 minutes	15 minutes	37 minutes	15 minutes
Aktau	60 minutes	30 minutes	-	30 minutes
Kostanai	120 minutes	40 minutes	120 minutes	40 minutes
Kulsary	540 minutes	120 minutes	540 minutes	120 minutes
Ust-Kameno-gorsk		300 minutes		100 minutes
Yessik		30 minutes		30 minutes
Shu		30 minutes		30 minutes
Semey		90 minutes		90 minutes
Zhanaozen		40 minutes		40 minutes
Kyzylorda		45 minutes		45 minutes

CONCLUSIONS:

1) Governmental restrictions on citizens' fundamental freedoms in Kazakhstan extend to freedom of peaceful assembly as well.

Although local and international laws guarantee the right to peaceful assembly, in fact, people in Kazakhstan cannot hold peaceful protests to express important concerns and do it where they want to. In addition, the Law on Peaceful Assemblies restricts citizens' ability to react quickly to certain events as it requires that an application be filed to a local executive body at least ten days in advance. The same law does not envision the right to a single picket and requires that an application for holding a protest be submitted by an organisation or a group of persons. The police, prosecutors' offices and judges regard recommendations from local executive bodies that determine locations for holding peaceful assemblies (usually, in the suburbs or beyond a city) as a legal requirement. However, even if people intend to hold a permitted peaceful assembly in a designated place after obtaining a permit, there is no guarantee that such permit will be issued. This will depend on the issues raised by the assembly, and any suspicion that the assembly would criticise the government is usually a reason to deny the permit. Permits are often denied in violation of the law (the authorities' failure to answer within the prescribed time, or denial without explaining reasons or providing an alternative location and time if the authorities claim that the chosen location and time are busy with another assembly or for other reasons).

2) Local executive authorities, the police, prosecutors' offices and judges have very little knowledge of national and international laws as regards the procedure for holding peaceful assemblies. In addition, the reaction of the police, akimats and prosecutors' offices, as well as judges, often depends on political implications or instructions received in respect of certain participants in or the concerns raised at an assembly. For this reason, Kazakhstan's citizens cannot foresee what will be the government's reaction and what sanctions may follow.

3) The "land protests" have shown that Kazakhstan's citizens can organise large events in an entirely peaceful and constructive manner. The government has shown, however, that it is not ready for dialogue and, even when it takes citizens' opinion into account, the very form of an open assembly causes antagonism and prosecution of its organisers and participants. Even when high-profile officials guarantee that there will be no prosecution of protesters (as it happened in Atyrau), these statements have nothing to do with the reality and the organisers may be subjected to repressions (the case of Talgat Ayanov and Max Bokayev).

4) Despite the pressure and the "Zhanaozen syndrome," citizens have shown that decisions that are of importance to many people and that have been made without taking their opinions into account can catalyse protests.

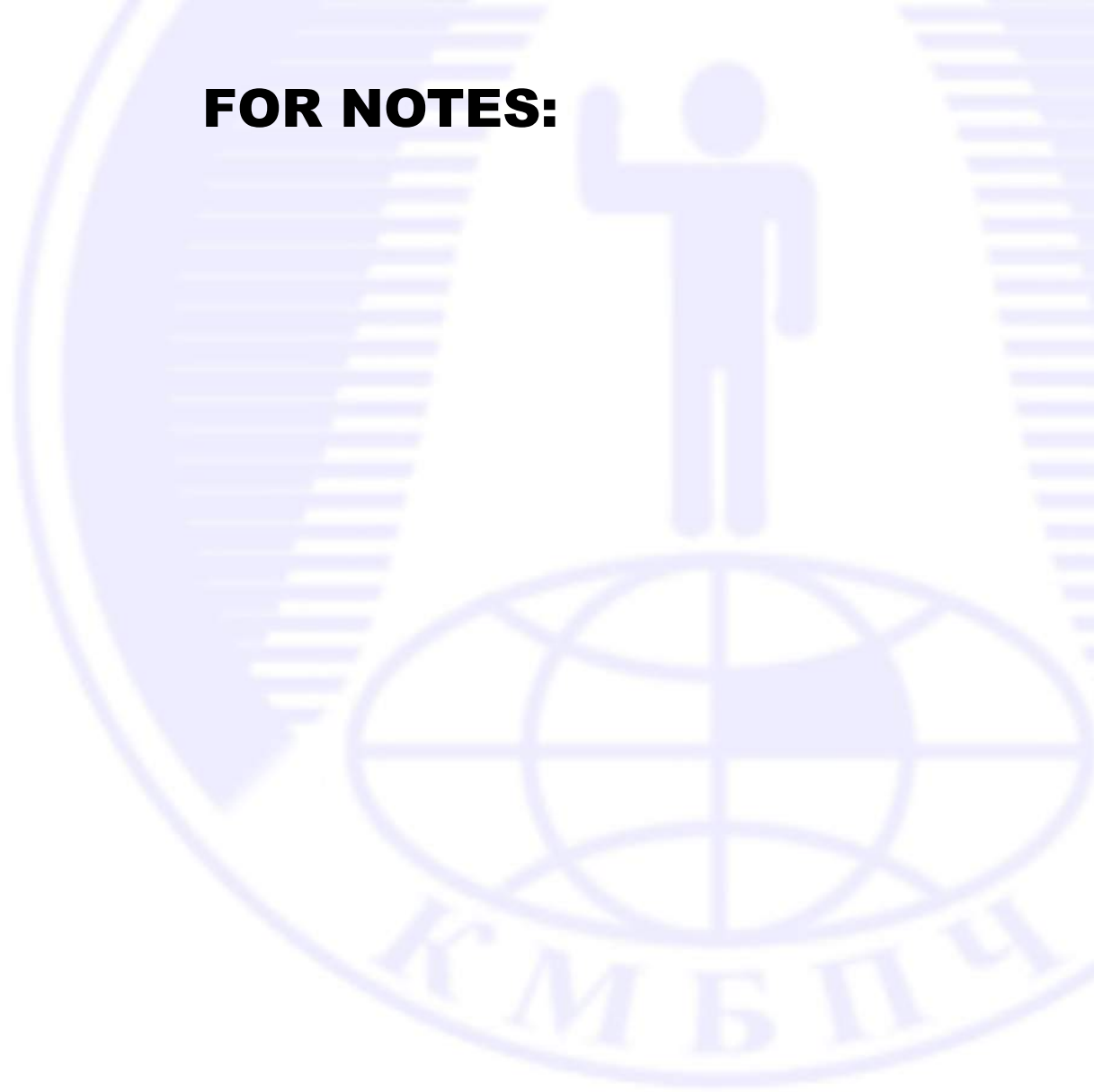
5) Spontaneous assemblies without attempts to get permits or their somewhat radical forms such as roadblocks or enchainment are people's reaction to governmental initiatives, although the consequences of such protests for their organisers and participants may be harsh. In some instances, the impossibility to convey demands to governmental agencies in a lawful manner makes people resort to extreme measures and express their protest in the form of a public suicide or an attempted public suicide.

6) The system of permits for holding peaceful assemblies is outdated. Its only function is to allow the authorities to punish protest organisers and participants and this often looks like attempts to frighten the public.

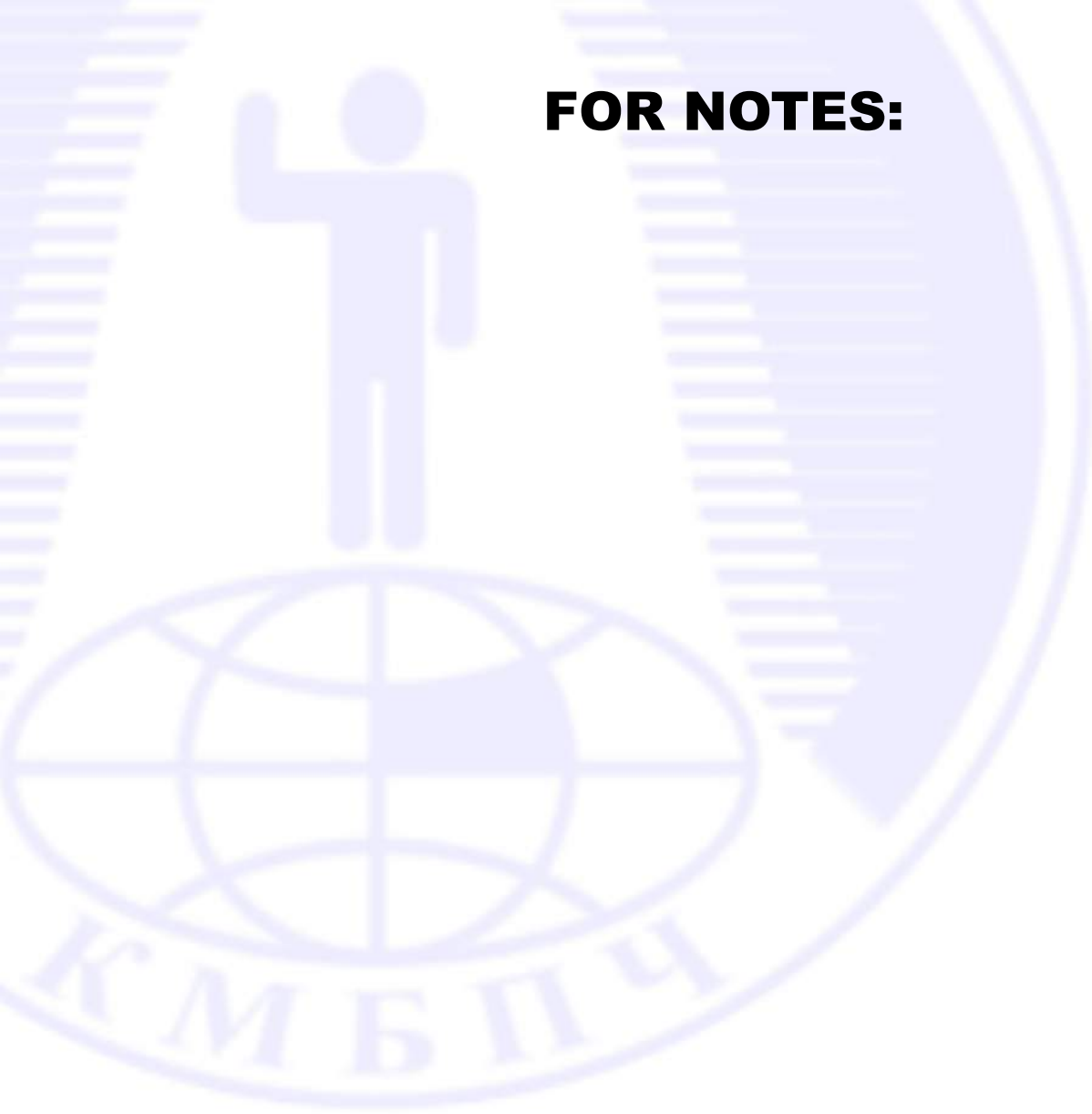
7) Some groups of protest initiators or separate participants that raise non-topical issues or concerns that are not regarded as sensitive by governmental agencies may count on a permit. Some assemblies may be held in special places, with direct or implied consent from the authorities, but only when protesters' demands coincide with the official policies (for example, a picket near the U.S. Embassy).

8) The Law on Peaceful Assemblies is outdated and needs revision. Local executive bodies' authority to locate peaceful assemblies in special places should be abolished as it contradicts the Constitution of Kazakhstan and the International Covenant on Civil and Political Rights.

FOR NOTES:



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The authors are responsible for the reliability of information presented in this report, as well as for their opinions and findings.

