

Research Article

LEGAL CULTURE AND LEGAL CONSCIOUSNESS IN KAZAKHSTAN: AN ANALYSIS OF THE ANNUAL REPORTS OF THE OMBUDSMAN FOR HUMAN RIGHTS AND LEGAL ACTS

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ABSTRACT

Background: Legal consciousness and legal culture are interrelated but different concepts. Legal consciousness is a set of ideas, views, beliefs and feelings of people regarding law, legality and justice. It reflects the attitude of society or an individual toward the law. Legal culture is a broader concept that includes not only the level of legal consciousness but also the degree of implementation of legal norms in society, as well as the lawful behaviour of citizens. The development of legal awareness and legal culture is necessary for the construction of a legal state and the observance of democratic principles. Examining these elements is important for evaluating how effectively policies fulfil human rights obligations and identifying key directions to improve justice and equity.

Methods: The study utilised document and legal analysis approaches. It examined the legal culture and legal consciousness in Kazakhstan by analysing the annual reports of the Ombudsman for Human Rights from 2019 to 2023, as these provide authoritative assessments of human rights, legal awareness, and access to justice in Kazakhstan. Additionally, the study analysed current legislation and policy documents relevant to legal culture and legal consciousness in Kazakhstan, including the Constitution of the Republic of Kazakhstan, the Concept for the Development of Legal Policy in the Republic of Kazakhstan until 2030, and the National Plan for Human Rights and the Rule of Law.

Results and Conclusions: The study revealed the dynamics of public legal consciousness and the challenges of adjusting national policies to global human rights standards. The findings were categorised into three main themes: complaints as indicators of legal culture and legal

consciousness; human rights in criminal proceedings and rights of convicts; and legal education and public engagement. As the findings indicate, human rights violations during pre-trial investigations, allegations of coercion, and mistreatment of convicts remain significant concerns in ensuring access to justice in Kazakhstan. These results highlight gaps in institutional accountability and policy implementation, stressing persistent difficulties in protecting human rights within the criminal justice and judicial systems. An analysis of key legal acts in the context of legal culture and legal consciousness revealed that the development of a strong legal culture in Kazakhstan requires a number of reforms aimed at increasing the level of legal education of the population, institutional accountability, and effective implementation of laws. The study concludes that to promote legal culture and legal consciousness in Kazakhstan, it is imperative to address identified systemic issues through legal reforms, public education, and institutional strengthening.

1 INTRODUCTION

Examining the formation of legal culture and legal consciousness is necessary to understand the difficulties of maintaining the rule of law in society. Legal consciousness and legal culture are closely interconnected. The latter reflects the level of legal development in a society and is an essential component of culture overall. A high level of legal culture signifies a state governed by the rule of law. Legal culture characterises the level of legal consciousness in society.¹ In turn, the population's legal consciousness level depends on how deeply they have mastered such legal phenomena as the value of human rights and freedoms, the value of lawful behaviour, and the extent to which they are informed about legal responsibility for various types of offences. Despite their close relationship, these concepts reflect different aspects of how people and societies perceive, engage with, and apply the law.² Unlike legal consciousness, legal culture covers legal structures, relations regarding the role of law, relations with citizens, and interpenetration with other cultural systems. These concepts are particularly important in transitional countries such as Kazakhstan due to the complex interaction between the effects of globalisation, historical legacies and socio-political changes.

1 Roger Cotterrell, 'Comparative Law and Legal Culture' in Mathias Reimann and Reinhard Zimmermann (eds), *The Oxford Handbook of Comparative Law* (2nd edn, OUP 2019) 710, doi:10.1093/oxfordhb/9780198810230.013.22; David Nelken, 'Comparative Legal Research and Legal Culture: Facts, Approaches, and Values' (2016) *Annual Review of Law and Social Science* 45, doi:10.1146/annurev-lawsocsci-110615-084950.

2 István H Szilágyi, 'Social Legal Consciousness or Legal Culture?' (2022) 7(2) *Public Governance, Administration and Finances Law Review* 5, doi:10.53116/pgafllr.2022.2.1.

This article examines legal culture and legal consciousness in Kazakhstan through a detailed analysis of key legal acts and the annual reports of the Ombudsman for Human Rights.³ The reports provide a rich source for the analysis of legal culture and legal consciousness and include data on public attitudes towards human rights, institutional responses and systemic legal problems. By analysing these reports, this study looks at how legal consciousness manifests in the everyday interactions of citizens and government institutions and highlights areas of progress and persistent challenges. Through this analysis, the article aims to shed light on how legal consciousness and culture are formed and improved, providing a basis for more effective governance and legal policymaking.

2 METHODOLOGY

This study explored legal culture and legal consciousness in Kazakhstan through the analysis of the annual reports of the Ombudsman for Human Rights from 2019 to 2023. By documenting complaints, investigations and resolutions, the reports mirror social attitudes toward the legal system. The reports present quantitative and qualitative data, including the number of complaints and types of violations. This data provided the main trends and inequalities and contributed to the overall understanding of Kazakhstan's legal culture and consciousness. The reports were retrieved from the official website of the Ombudsman to ensure their authenticity and credibility. A systematic analysis was conducted to identify key themes and trends within the reports.

In addition, a legal analysis method was used to analyse key legal and policy documents in the context of legal culture and legal consciousness in Kazakhstan, including Constitution of Kazakhstan, legislative acts and policy acts. Documents were chosen based on their relevance to legal norms, societal values, and the development of legal culture and legal consciousness.

3 EVOLUTION OF LEGAL CULTURE AND LEGAL CONSCIOUSNESS IN KAZAKHSTAN

The traditional foundations of legal culture in Kazakhstan included adat, sharia, Soviet and modern legislation. While adat and sharia prioritised social harmony and moral values, the Soviet period introduced a centralised legal system that strengthened state authority in personal and cultural matters.⁴ Before the establishment of a formal state legal system,

3 Human Rights Ombudsman in the Republic of Kazakhstan, 'Report for 2023 on the Activities of the Human Rights Ombudsman in the Republic of Kazakhstan' (*gov.kz The Single Platform of Government Agencies*, 22 April 2024) <<https://www.gov.kz/memleket/entities/ombudsman/documents/details/649896?lang=en>> accessed 4 February 2025.

4 Allen J Frank, 'Shari'a Debates and Fatwas among Nomads in Northern Kazakhstan, 1850-1931' (2017) 24(1-2) *Islamic Law and Society* 61, doi:10.1163/15685195-02412p03.

Kazakh society was governed by customary law (adat), deeply rooted in the nomadic way of life and collective social structure. It consisted of unwritten norms and practices that regulated relations between people, resolved disputes and maintained order between clans and tribes. Adat placed great emphasis on social values, negotiations, and compromises.⁵

The main sources of Kazakh customary law are the legislative acts of the khans, such as the "Clear Path" of Khan Kasym, the old path of Khan Yesim, and the "Seven Charters" of Khan Tauke (Zheti Zhargy). Zheti Zhargy formalised the judicial power of the biys (judges) and codified the norms concerning crimes against the person, property, and family relations.⁶ Biys were not hereditary leaders but were selected for their wisdom, impartiality, and deep understanding of customary laws. The Zheti Zhargy consisted of seven sections and resolved disputes in seven areas of public life: land disputes, disputes over widows, disputes over kun (ransom), child upbringing and marital relations, responsibility for crimes, inter-tribal disputes, and ensuring national security. During this period, legal culture was shaped by the nomadic lifestyle, where relationships were often unstable and mediated through social bonds rather than centralised legal institutions. The primary purpose of adat was to maintain harmony within the tribe, preventing and resolving disputes. In this context, legal culture was less formalised and more reliant on social practices and mutual respect. This traditional legal system provided the foundation for legal consciousness in pre-Soviet Kazakhstan, shaping the Kazakh nomadic traditions of justice, fairness, and the articulation of human rights.⁷ Thus, customs and traditions were closely linked to legal consciousness, absorbing aspects of social ideology.

The spread of Islam in Central Asia brought sharia as an additional legal structure, which impacted Kazakh society.⁸ Although Islam became an important part of Kazakhstan's cultural and spiritual life, its legal principles did not fully suppress adat. Instead, the two systems worked in co-existence and reconciled with each other. Sharia was mostly used for private matters such as marriage, divorce and inheritance, while adat continued to govern social and tribal matters.⁹ These norms allowed the Kazakh society to preserve its nomadic traditions by integrating the Islamic values of justice and morality.

5 Natal'ya M Bezkaravaeva, 'Modernization of the Kazakh Institutions of Power in the Structure of West Siberian Governorate-General in the 19th Century' (2023) 7(1) *Historia Provinciae* 238, doi:10.23859/2587-8344-2023-7-1-6.

6 Rafail N Zinurov, 'The "Sudebnik" by Mkhitar Gosh and "Zheti Zhargy" by Tauke Khan as Unique Ethno-Legal Monuments of the Past Centuries' (2021) 3 *Law and State* 26, doi:10.51634/2307-5201_2021_3_26.

7 Beibit Yu Shangirbayeva, '"The Freedom of a Fair Word": The Roots of Human Rights Discourse in Kazakh Cultural Heritage' (2023) 42(3) *Central Asian Survey* 444, doi:10.1080/02634937.2023.2192742.

8 Frank (n 4); Zaur Jalilov and Bolatbek Batyrkhan, 'Islam in Kazakhstan: History of Revival under Conditions of Independence' (2019) 20(3) *Central Asia and the Caucasus* 124.

9 Frank (n 4).

With Kazakhstan's entry into the Soviet Union, adat and sharia were replaced by a centralised socialist legal system that established a codified and state-controlled legal system. Soviet legal culture placed a priority on social welfare, the strengthening of state authority, and tight centralisation.¹⁰ Customary practices and traditional legal institutions, such as the biys, were eliminated in favour of codified laws that reflected Marxist-Leninist doctrine. The Soviet government sought to standardise legal systems across the union, frequently disregarding local cultural and historical contexts.¹¹

Positive changes in the legal system of Soviet Kazakhstan included the destruction of certain harmful institutions of Kazakh customary law, the increase in the social status of women, and the creation of a new Soviet concept of civil rights. Although the Soviet government permitted some traditional customs such as polygamy, the levirate custom, and kalym (wedding price) under specific constraints during Kazakhstan's early Soviet era, they recognised these practices as destructive relics of patriarchal institutions that harmed women. These traditional practices often conflicted with the Soviet administrative structure.¹² Nevertheless, Soviet legal reforms had a notable impact on legal culture and legal consciousness in Kazakhstan.

Kazakhstan retained not only the legal structures and institutions of the USSR after independence in 1991, but also a strong bond with the Russian language and legal traditions.¹³ However, in the post-Soviet era, the development of the Kazakh ethnic group and the growing importance of the Kazakh language played a critical role in national identity.¹⁴ The 1995 Constitution was instrumental in strengthening the rule of law and advancing democratic governance. Despite these achievements, there are still a number of

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- 10 Robert Sharlet, 'Stalinism and Soviet Legal Culture' in Robert C Tucker (ed), *Stalinism: Essays in Historical Interpretation* (Routledge 2017) 155, doi:10.4324/9781315130217-7.
 - 11 Edward Lemon and Oleg Antonov, 'Authoritarian Legal Harmonization in the Post-Soviet Space' (2020) 27(7) *Democratization* 1221, doi:10.1080/13510347.2020.1778671.
 - 12 Yerlan Sailaubay and Albina Zhanbossinova, 'Kazakh Nomads, Social Class Transformations and Soviet Power during the Period of Collectivization' [2024] *Central Asian Survey*, doi:10.1080/02634937.2024.2407967.
 - 13 Matthew Blackburn, 'Discourses of Russian-Speaking Youth in Nazarbayev's Kazakhstan: Soviet Legacies and Responses to Nation-Building' (2019) 38(2) *Central Asian Survey* 217, doi:10.1080/02634937.2019.1615409; Aziz Burkhanov, 'Kazakhstan's National Identity-Building Policy: Soviet Legacy, State Efforts, and Societal Reactions' (2017) 50(1) *Cornell International Law Journal* 1, doi:10.31228/osf.io/2hfr6; Marlene Laruelle, Dylan Royce and Serik Beysembayev, 'Untangling the Puzzle of "Russia's Influence" in Kazakhstan' (2019) 60(2) *Eurasian Geography and Economics* 211, doi:10.1080/15387216.2019.1645033.
 - 14 Aiganym Maulen, Rustem Kadyrzhanov and Seilbek Mussatayev, 'Post-Soviet Ethnodemographic Dynamics as a Factor of National Building in Kazakhstan' (2025) 31(1) *Nationalism and Ethnic Politics* 138, doi:10.1080/13537113.2024.2422196.

challenges, including the independence of the judiciary, ensuring equal access to justice, and combating corruption.¹⁵

Kazakhstan's post-Soviet transition has been impacted by globalisation in a significant way, affecting both its legal and cultural context. As a result, the government has integrated democratic principles and international legal norms into national policies.¹⁶ Kazakhstan has also been actively involved in international organisations and has integrated international human rights standards into the national legal system.¹⁷ However, the World Bank report highlights that in Kazakhstan, available information is not easily accessible for public participation and understanding, which hinders citizen engagement.¹⁸

4 LITERATURE REVIEW

Legal culture and legal consciousness are crucial for understanding how society perceives the legal system. Legal culture refers to society's collective values, beliefs, and practices around law and justice.¹⁹ Elements of legal culture include knowledge and understanding of laws, compliance with legal norms, development of lawmaking and law enforcement, and protection of human rights and freedoms. Legal consciousness is a part of legal culture, but it does not guarantee lawful behaviour. Thus, legal consciousness belongs to individuals' perceptions and attitudes towards legal institutions and norms.²⁰ Legal culture includes not

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- 15 Kanatay Dalmatov and others, 'Addressing Human Rights Violations in the Criminal Justice System of Kazakhstan: The Role of the Prosecutor's Office and a Call for Legislative Reforms' (2024) 7(3) *Access to Justice in Eastern Europe* 63, doi:10.33327/AJEE-18-7.3-a000323; Zhaslan Khamitov, Colin Knox and Gulsara Junusbekova, 'Corruption, Public Procurement and Political Instability in Kazakhstan' (2023) 42(1) *Central Asian Survey* 89, doi:10.1080/02634937.2022.2072811; Olzhas Ramashov and others, 'Constitutional and Legal Framework of Anti-Corruption Measures in the Republic of Kazakhstan: Problems, Trends, Solutions' (2024) 45(6) *Deviant Behavior* 870, doi:10.1080/01639625.2023.2268249.
 - 16 OECD, *Reforming Kazakhstan: Progress, Challenges and Opportunities* (OECD Publishing 2018) doi:10.1787/18ba0d60-en.
 - 17 Dalmatov and others (n 15); Anja Mihr, 'Human Rights Education and Human Rights in Central Asia' in Anja Mihr and Cindy Wittke (eds), *Human Rights Dissemination in Central Asia: Human Rights Education and Capacity Building in the Post-Soviet Space* (SpringerBriefs in Political Science, Springer 2023) 31, doi:10.1007/978-3-031-27972-0_3; Roman Podoprigora and Alexandr Klyushev, 'International Instruments Influencing Religious Freedom in Kazakhstan' (2018) 16(2) *Review of Faith and International Affairs* 90, doi:10.1080/15570274.2018.1469829.
 - 18 World Bank, *Kazakhstan: Strengthening Public Finance for Inclusive and Resilient Growth: Public Finance Review* (World Bank Group 2023) <<http://documents.worldbank.org/curated/en/099057102282440191>> accessed 4 February 2025.
 - 19 Cotterrell (n 1); Nelken (n 1).
 - 20 Lynette J Chua and David M Engel, 'Legal Consciousness Reconsidered' (2019) 15 *Annual Review of Law and Social Science* 335, doi:10.1146/annurev-lawsocsci-101518-042717; Filip Horák, David Lacko and Adam Kloczek, 'Legal Consciousness: A Systematic Review of Its Conceptualization and Measurement Methods' (2021) 31(1) *Anuario de Psicología Jurídica* 9, doi:10.5093/APJ2021A2.

only the level of legal consciousness, but also the degree of implementation of legal norms in society, as well as the lawful behaviour of citizens. In other words, high legal culture presupposes not only an understanding of laws but also their active application in practice. Together, legal culture and legal consciousness provide an insight into how the general public perceives justice and law, which directly impacts the efficacy and validity of the legal system. Public collaboration with legal institutions is generally higher in societies with a strong legal culture and a positive legal consciousness, which increases the credibility and effectiveness of legal institutions.²¹ Factors, such as trust and transparency of legal processes in the judicial system, greatly affect public perception of justice.²²

Recent studies highlight the complexity of legal culture and consciousness, discovering their role as an outline to understand the engagement of individuals with laws and institutions. Some researchers argue that the concept and measurement of legal consciousness are underdeveloped and lack clarity and functionality.²³ Despite its importance as a construct to understand the legitimacy of law, many studies fail to provide a clear definition of legal consciousness. Some authors view legal consciousness as a framework through which individuals express and clarify their dissatisfaction with state institutions.²⁴

Post-Soviet countries as transitional societies provide a compelling case to examine the development of legal culture and legal consciousness. Research indicates that these nations demonstrate common characteristics, including centralised legal structures, limited judicial freedom, a legacy of undemocratic political authorities, and extensive public mistrust of legal institutions.²⁵ However, there are also significant differences due to cultural, economic and political contexts and influences.²⁶ In Kazakhstan, the

- 21 Alejandra Díaz Gude and Iván Navarro Pápic, 'Restorative Justice and Legal Culture' (2020) 20(1) *Criminology and Criminal Justice* 57, doi:10.1177/1748895818796549; Kathryn M Young and Katie R Billings, 'Legal Consciousness and Cultural Capital' (2020) 54(1) *Law and Society Review* 33, doi:10.1111/lasr.12455.
- 22 Stephan Grimmelikhuijsen and Albert Klijn, 'The Effects of Judicial Transparency on Public Trust: Evidence from a Field Experiment' (2015) 93(4) *Public Administration* 995, doi:10.1111/padm.12149; Shlomo Mizrahi, Eran Vigoda-Gadot and Nissim Cohen, 'Antecedents of Trust in the Judiciary: Between Fair Process and High Satisfaction' (2020) 24(2) *International Public Management Journal* 250, doi:10.1080/10967494.2020.1819920.
- 23 Horák, Lacko and Kloczek (n 20).
- 24 Mayra Feddersen and others, '"The State Is Something That Disappoints": Legal Consciousness amid Institutional Dissatisfaction' (2024) 58(1) *Law and Society Review* 69, doi:10.1017/lsr.2023.3.
- 25 Artem Galushko, 'The Soviet Kingdom of Crooked Mirrors and Its Legacy of "Twofold Constitutionalism": Politically Motivated Trials against Citizens of Ukraine in the Russian Federation' (2016) 8 *Hague Journal on the Rule of Law* 155, doi:10.1007/s40803-016-0026-x; William M Reisinger, Marina Zaliznaya and Vicki L Hesli Claypool, 'Popular Legal Attitudes and the Political Order: Comparative Evidence from Georgia, Russia and Ukraine' (2021) 73(1) *Europe-Asia Studies* 36, doi:10.1080/09668136.2020.1807469.
- 26 Peter H Solomon and Kaja Gadowska, 'Legal Change in Post-Communist States: Contradictions and Explanations. Introduction' (2018) 51(3) *Communist and Post-Communist Studies* 173, doi:10.1016/j.postcomstud.2018.07.004.

adoption of international legal norms presented both opportunities and challenges for its legal system.²⁷

5 FINDINGS AND DISCUSSION

5.1. Complaints as Indicators of Legal Culture and Legal Consciousness

Complaints in any legal system are an important element because they reflect the experiences, perceptions, and understanding of individuals regarding the law. They are often seen as a direct response to the functioning of legal norms, practices and justice systems.

Figure 1²⁸ shows the number of appeals received by the Ombudsman for Human Rights in Kazakhstan, which increased considerably in 2023 compared to previous years. The total number of appeals reached 5,773 in 2023, 1.5 times more than in 2022 (3948). This increase in appeals reflects several critical aspects of Kazakhstan's legal culture and legal consciousness. The rising number of appeals suggests increasing awareness about the mechanisms available for legal rights and justice among the citizens. Overall, Figure 1 underlines the evolving legal culture in Kazakhstan, where public engagement with the legal mechanisms is increasing.

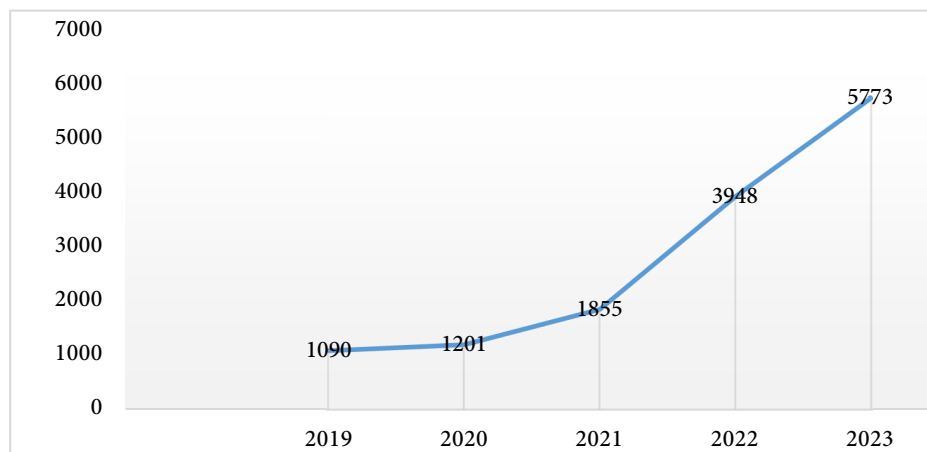


Figure 1. The number of appeals to the Ombudsman for Human Rights of the Republic of Kazakhstan

²⁷ Marzhan Bilyalova and others, 'Principles of Administrative Procedure and Proceedings in Kazakhstan against the Background of Foreign Experience' (2023) 25(4) Public Integrity 399, doi:10.1080/10999922.2022.2054570; Shokan Shokan Burashov and others, 'Consumer Rights in the Republic of Kazakhstan and Their Legal Regulation: Transformation in the Context of Global Experience' (2023) 25(6) Public Integrity 614, doi:10.1080/10999922.2022.2101268.

²⁸ Source: Human Rights Ombudsman in the Republic of Kazakhstan (n 3).

The report stresses that the availability of regional representatives has contributed to this trend by making the Ombudsman's services more accessible. Table 1²⁹ presents data on the regional distribution of individual consultations conducted by Ombudsman representatives in 2023. Currently, Kazakhstan is administratively divided into 17 regions (oblys) and 3 cities of republican significance.³⁰ The table lists both regions and cities of republican significance (Astana, Almaty, and Shymkent).

Table 1. Regional distribution of individual consultations conducted by representatives in 2023

No.	Region	Q1	Q2	Q3	Q4	Total
1	Zhambyl	44	47	51	84	226
2	Astana City	60	70	71	5	206
3	Shymkent City	20	49	47	42	158
4	Akmola	23	31	75	15	144
5	Kyzylorda	13	64	44	19	140
6	North Kazakhstan	15	35	46	31	127
7	Almaty City	14	27	44	38	123
8	Karaganda	29	23	29	42	123
9	Pavlodar	28	43	32	19	122
10	Aktobe	15	44	29	31	119
11	East Kazakhstan	35	29	15	20	99
12	West Kazakhstan	6	25	35	33	99
13	Mangystau	10	23	13	45	91
14	Atyrau	6	16	31	33	86
15	Turkestan	10	25	16	28	79
16	Zhetysu	26	32	5	2	65
17	Kostanay	14	24	13	8	59
18	Ulytau	-	6	21	23	50
19	Abay	-	7	18	23	48
20	Almaty City	-	-	-	7	7
	Total	368	620	635	548	2171

²⁹ Source: *ibid.*

³⁰ 'Republic of Kazakhstan' (*Official website of the President of the Republic of Kazakhstan*, 2025) <https://www.akorda.kz/en/republic_of_kazakhstan/kazakhstan> accessed 4 February 2025.

As Table 1 indicates, the highest number of consultations occurred in Zhambyl Region (226) and Astana City (206). Low activity was recorded in the Almaty Region due to the recent appointment of a representative and a lack of office infrastructure. The content and volume of complaints suggest different levels of public awareness regarding legal rights. The distribution of complaints across different regions suggests variations in legal consciousness and access to justice. Some regions may have high complaint rates due to socio-economic conditions, levels of legal education, or inequalities in law enforcement practices.

Figure 2³¹ presents the results of appeals submitted to the Ombudsman for Human Rights in 2022 and 2023. The data highlights an increase in both the number of complaints and their resolution rates, providing significant insights into evolving legal culture and legal consciousness in Kazakhstan.

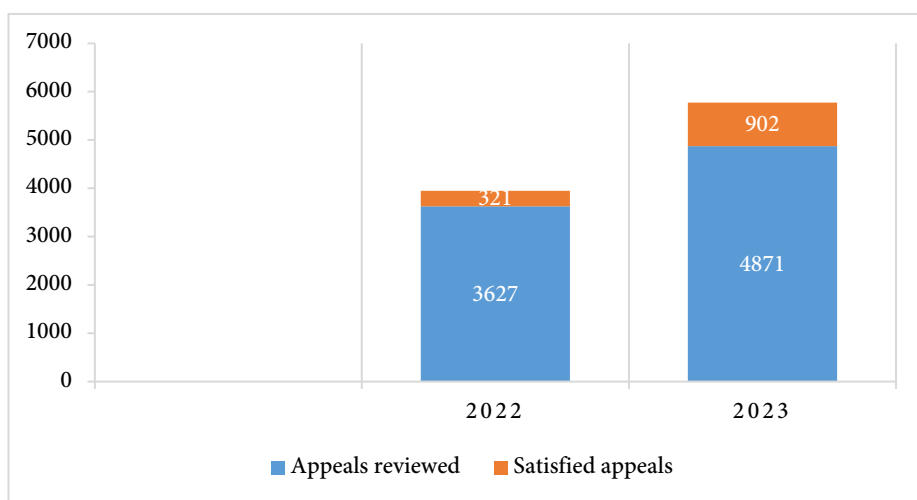


Figure 2. Results of consideration of appeals in 2022-2023

In 2023, out of 5,773 total appeals, 4,871 were reviewed, and 902 appeals (15,6 %) were resolved positively. This marked a significant growth compared to 2022, when 3,627 appeals were reviewed, and 321 (8,1 %) appeals were successfully resolved out of a total of 3,948 appeals. The number of positively resolved appeals increased significantly, rising from 321 in 2022 to 902 in 2023. The rise in appeals indicates that people are becoming more conscious of their legal rights and the mechanisms available to resolve complaints. A high percentage of resolved cases indicates a more institutional desire to address human rights concerns, though most appeals still receive only explanations rather than direct intervention. While the overall resolution rate improved, the fact that most appeals resulted in mere explanations rather than concrete actions suggests ongoing barriers to legal remedies. In 2023, only 15,6 % of cases resulted in a favourable outcome, which could indicate institutional limitations in enforcing rights and addressing systemic issues. The

31 Source: Human Rights Ombudsman in the Republic of Kazakhstan (n 3).

increasing number of complaints also reflects continuing distrust in other legal institutions, pushing citizens to seek assistance from the Ombudsman instead.

Figure 3³² presents the analysis of the main complaints submitted to the Ombudsman for Human Rights in Kazakhstan from 2020 to 2023. Key findings indicate that the highest number of complaints was related to the actions/inaction of pre-trial investigative authorities (1,263 cases in 2023). This figure increased by 9% compared to 2022.

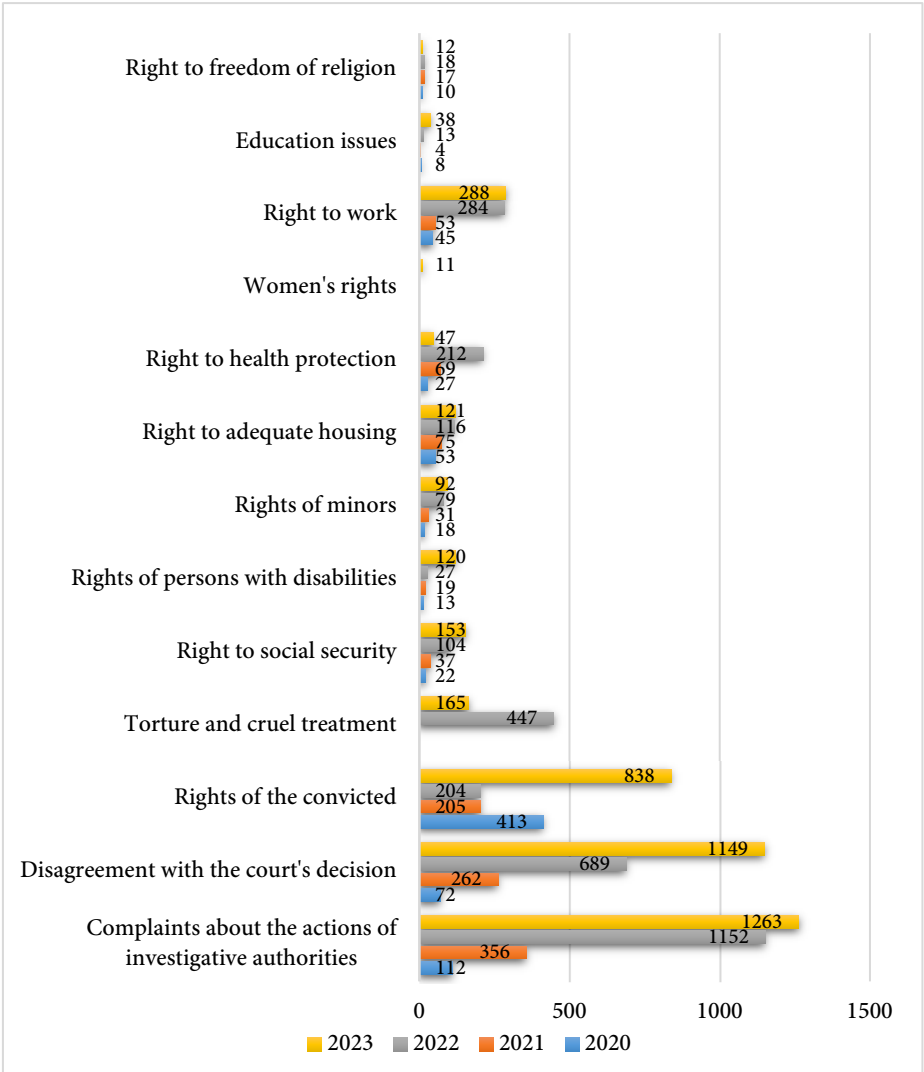


Figure 3. Complaints received by the Ombudsman in 2020-2023

32 Source: ibid.

A significant increase was observed in complaints regarding disagreement with court decisions (+66% compared to 2022). Complaints from convicted individuals quadrupled, indicating systemic issues in the penitentiary system. The number of complaints related to the rights of persons with disabilities increased fourfold. The analysis of Figure 3 highlights that the most pressing issues in Kazakhstan are criminal justice (pre-trial investigations and court decisions), imprisonment conditions, and social protection for vulnerable groups. The rise in appeals concerning criminal proceedings, social security, and the rights of vulnerable groups (such as prisoners and individuals with disabilities) reflects systemic legal challenges.³³ The prevalence of these complaints suggests weaknesses in institutional accountability and policy implementation, which may impede the growth of a more robust legal culture. At the same time, the rise in complaints can signify both a deterioration of these issues and a growing trust in the Ombudsman for Human Rights institution.

5.2. Human Rights in Criminal Proceedings and Rights of Convicts

The report highlights important issues related to human rights in Kazakhstan's criminal justice system, particularly the rights of individuals during criminal proceedings and the treatment of convicted persons. Key concerns include ensuring fair trial standards, access to justice, and protection from unlawful detention, coercion, and mistreatment. Despite legislative reforms aimed at strengthening due process and procedural safeguards, the data reveals systemic violations, including complaints about unlawful investigations, procedural delays, unjustified detentions, and cases of torture or ill-treatment.

Figure 4³⁴ presents complaints related to violations of access to justice during pre-trial investigations. The chart categorises complaints into four main types: violations of Criminal Procedure Code norms (47%) including improper pre-trial investigations, procedural delays, unfair preventive measures, and unjustified case dismissals; pressure, torture, and coercion to confess (16%); disagreement with the charges filed (19%); and unjustified or illegal detention (18%).

The high percentage of complaints related to procedural violations (47%) suggests systemic inefficiencies within Kazakhstan's pre-trial investigation system. Although the category of pressure, torture, and coercion into confession is smaller compared to procedural violations, 16% remains a concerning figure, indicating the continued use of coercive methods. Despite international pledges against torture and legal improvements, the presence of these complaints calls into doubt the accountability and enforcement in criminal investigations.³⁵

33 Human Rights Watch, 'World Report 2024: Kazakhstan' <<https://www.hrw.org/world-report/2024/country-chapters/kazakhstan>> accessed 4 February 2025.

34 Source: Human Rights Ombudsman in the Republic of Kazakhstan (n 3).

35 US Department of State, '2022 Country Reports on Human Rights Practices: Kazakhstan' <<https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/kazakhstan/>> accessed 4 February 2025.

A deeper analysis is needed to determine whether these cases lead to prosecutions of law enforcement officials or remain unresolved.

Almost one-fifth of complainants (19%) claim that they were unjustly accused or mischarged, pointing to potential shortcomings in evidence collection, investigative procedures, or prosecutorial discretion. This trend aligns with broader concerns about the fairness of the legal system, particularly regarding the presumption of innocence.³⁶ The significant proportion of complaints about illegal arrests and detention (18%) suggests that preventive detention is being misused. Over-reliance on detention instead of alternative measures (e.g., bail, house arrest) may reflect weak judicial oversight over law enforcement.

Taken together, the prevalence of complaints about procedural violations and coercion suggests deep-rooted problems in law enforcement culture.³⁷ Overall, Figure 7 provides a critical snapshot of the weaknesses in Kazakhstan's criminal justice system, particularly in pre-trial investigations.

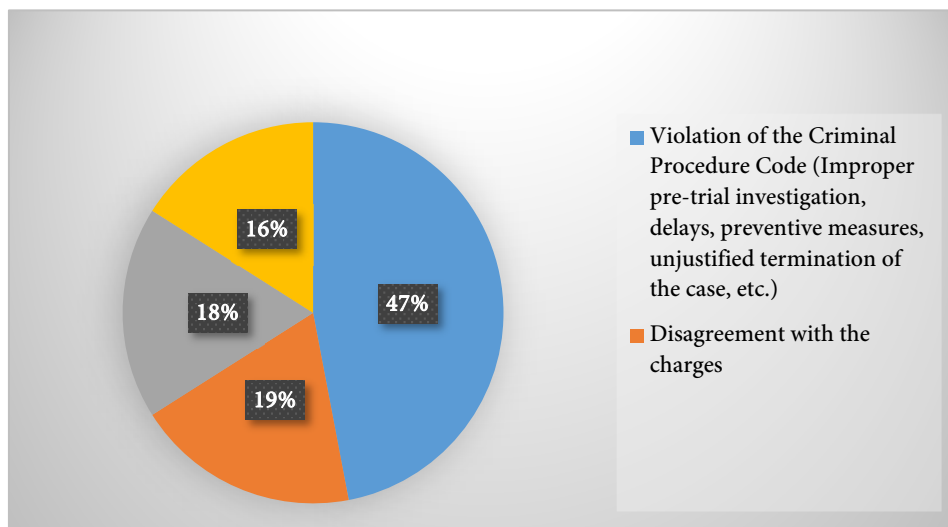


Figure 4. Complaints regarding violations of the right to access to justice during the pre-trial investigation

Figure 5³⁸ presents 838 appeals related to the rights of convicts in 2023. The data highlights key areas of concern, including medical care, detention conditions, and allegations of torture. The complaints reflect systemic challenges within Kazakhstan's penitentiary system, raising questions about prison conditions, legal protections, and human rights enforcement.

36 Pamela R Ferguson, 'The Presumption of Innocence and Its Role in the Criminal Process' (2016) 27 Criminal Law Forum 131, doi:10.1007/s10609-016-9281-8.

37 Dalmatov and others (n 15).

38 Source: Human Rights Ombudsman in the Republic of Kazakhstan (n 3).

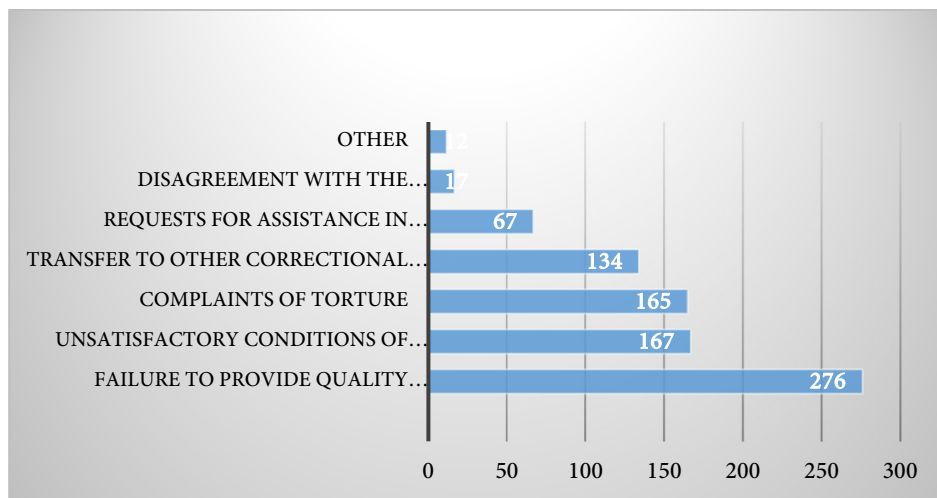


Figure 5. Appeals regarding the rights of convicts in 2023

The highest number of complaints (276) concerns failure to provide quality medical care. This suggests systemic deficiencies in healthcare services within correctional facilities, possibly shortages of medical staff, limited access to treatment, and inefficient emergency care. Complaints about unsatisfactory detention conditions (167) highlight issues such as overcrowding, inadequate sanitation, and poor nutrition. This aligns with broader concerns about prison conditions in Kazakhstan, where facilities often fail to meet international human rights standards.³⁹

Additionally, 165 convicts filed complaints concerning allegations of torture, indicating serious human rights violations. This demonstrates that despite legal reforms prohibiting torture, instances of mistreatment, excessive force, and coercion continue to persist in correctional facilities. The high number of complaints signals either an increase in reported cases or a growing willingness to report abuses.

A significant number of convicts (134) requested transfers to different correctional institutions, indicating concerns about safety, conflicts with other prisoners, or unfavourable conditions in their current facilities. This may also indicate regional disparities in prison conditions.

The 67 appeals for assistance in case reviews suggest that many prisoners believe they were wrongly convicted or did not receive fair legal representation, reflecting broader concerns about access to justice and procedural fairness in Kazakhstan's legal system.⁴⁰

³⁹ Human Rights Watch (n 33).

⁴⁰ Dalmatov and others (n 15).

Disagreements with disciplinary sanctions (17 cases) and miscellaneous complaints (12 cases) had lower reporting rates. While these numbers are smaller, they indicate issues with due process in prison disciplinary actions and potential cases of unjust punishment.

To sum up, Figure 5 shows significant challenges regarding prisoners' rights in Kazakhstan, particularly in healthcare, detention conditions, and allegations of torture. The high number of complaints reflects both systemic deficiencies and a growing willingness to report abuses. Addressing these issues requires comprehensive prison reforms, including prison monitoring initiatives.⁴¹

5.3. Legal Education and Public Engagement

Legal education provides individuals with a foundation for understanding the law. This knowledge gives citizens the right to navigate legal systems, claim their rights and engage in informed discussions about legal and policy issues. Legal literacy, which includes the ability to understand the functioning of legal rights, obligations and justice systems, is important for active participation in a democratic society.⁴²

The reports highlight the efforts of the Ombudsman for Human Rights to promote legal awareness and human rights education. However, several aspects warrant further discussion. A major point is the effectiveness of legal education and public awareness campaigns. According to the report, 196 events were organised, reaching 16,512 people. While this is a notable figure, it questions the overall impact in a country with a population of 20 million. Additionally, the use of TV, media, and social networks is notable, but it is important to assess engagement metrics such as comments to determine public interest and participation.

Another important aspect is the involvement of the Ombudsman's representatives in 51 meetings of advisory and supervisory bodies. While this displays active participation in policy discussions, the important question is how effective this participation has been. Without clear results, the effectiveness of such engagements remains uncertain.

The report also focused on initiatives to improve public legal literacy, which is an indicator of social legal consciousness. It highlights key efforts to promote human rights education and legal awareness in Kazakhstan, especially through initiatives led by the Ombudsman and other various governmental and non-governmental organisations. The report also discusses extensive reform efforts in Kazakhstan, including the abolition of the death

41 Sophie van der Valk and Mary Rogan, 'Experiencing Human Rights Protections in Prisons: The Case of Prison Monitoring in Ireland' (2021) 18(1) *European Journal of Criminology* 101, doi:10.1177/1477370820960024.

42 Michaela Dombrovská, 'Literacy for Democracy: What Can Information Literacy Learn from Legal Literacy, and Vice Versa?' in Serap Kurbanoğlu and others (eds), *Information Literacy in a Post-Truth Era* (Communications in Computer and Information Science, Springer 2022) 741, doi:10.1007/978-3-030-99885-1_61.

penalty, the strengthening the judiciary, and the expansion of the Ombudsman's powers—all part of Kazakhstan's broader commitment to human rights and democracy.⁴³

A comparative analysis of the annual reports of the Ombudsman for Human Rights from 2019 to 2023 revealed notable trends and developments. Specifically, in response to public demand, the scope of free legal assistance has been broadened. In June 2022, the list of individuals eligible for free legal aid was expanded to cover victims of domestic violence, sexual violence, trafficking, terrorism, and torture.

The analysis also reveals improvements in institutional capacity: in 2019, the Ombudsman's office budget was over 80 million tenge; by 2022, it had increased to over 500 million tenge, and in 2023, it exceeded 1 billion tenge.⁴⁴ Most notably, in 2023, the appointment of the Presidential Commissioner for the Rights of Vulnerable Social Groups underscored a dedication to protecting marginalised groups.

Between 2019 and 2023, complaints to the Ombudsman consistently centred on issues within the criminal justice system. The most common issues were: in 2023, complaints about the actions of investigative authorities (1,263 cases); in 2022, similar complaints about the actions of investigative authorities (1,152 cases); in 2021, disagreements with court decisions (262 cases); and in 2020, violations of the rights of convicted individuals (413 cases). This data indicates ongoing concerns about law enforcement practices, judicial decisions, and the treatment of individuals within Kazakhstan's criminal justice system.

5.4. Analysis of Key Legal Acts in the Context of Legal Culture and Legal Consciousness in Kazakhstan

The selected legal acts provide an important basis for understanding the legal culture and legal consciousness in Kazakhstan. Their provisions shape public legal awareness, the accessibility of justice and legal education, which correspond to the key themes discussed in this article. The Constitution of Kazakhstan⁴⁵ serves as the fundamental legal framework of the country, establishing the principles of human rights and the rule of law. The Constitution enshrines key democratic principles such as equality before the law (Article 14), and the protection of fundamental rights and freedoms (Articles 10-39). These norms promote a strong legal culture by ensuring that legal norms are accessible and applicable to all citizens. The Constitution also contains provisions guaranteeing various mechanisms for public participation, including freedom of speech and assembly (Articles 20 and 23). These rights are critical for the development of a more informed and law-conscious society.

43 Dalmatov and others (n 15); Human Rights Watch (n 33).

44 Human Rights Ombudsman in the Republic of Kazakhstan (n 3).

45 Constitution of the Republic of Kazakhstan of 30 August 1995 (amended 1 January 2023) <https://adilet.zan.kz/eng/docs/K950001000_> accessed 4 February 2025.

The Administrative Procedural and Process-Related Code of the Republic of Kazakhstan regulates the appeals of individuals and legal entities, which came into force on 29 June 2020.⁴⁶ The purpose of this Code is to establish a comprehensive framework for the effective management of administrative appeals and legal procedures. Individuals and legal entities have the right to seek protection against violations and disputes of their rights, freedoms, or legal interests as guaranteed in Article 9 of the Code. Furthermore, the article declares that any attempt to waive this right is invalid. This ensures that no one can be compelled to abandon their right to file a complaint or appeal a decision. All individuals are guaranteed legal protection under this provision, and state authorities are held accountable for their actions.

Article 22 of the Code outlines the rights of individuals and legal entities when interacting with administrative bodies. According to this article, individuals and legal entities may file both individual and collective appeals. Applicants are granted several basic rights, including the right to receive explanations on their case, to be heard before a decision is made, and to have access to and copy the case materials. In addition, they have the right to terminate the administrative procedure if they were its initiators. The Code also ensures that foreigners, stateless persons, and foreign companies have the same rights and obligations as citizens of Kazakhstan, unless otherwise provided by law or international agreements. Overall, this article guarantees fairness, transparency, and accessibility of administrative procedures, ensuring that individuals and organisations can effectively protect their rights.

Article 64 of the Code outlines rules on how administrative bodies must consider appeals from individuals and legal entities. It ensures that all appeals are received, registered, and processed properly, promoting transparency and accountability. Refusal to accept an appeal is not permitted. Appeals must be registered on the same day they are received, unless received on a non-working day, in which case they are registered on the next working day. If an appeal is submitted electronically, it must comply with Kazakhstan's requirements for a digital document and electronic signature to be considered valid. If an appeal does not meet legal requirements, the administrative body must inform the applicant of the problems and give them time to correct them. It may be returned if the applicant fails to correct the appeal within the specified time. However, returning the appeal does not prevent the applicant from resubmitting it.

Article 76 of the Code establishes the time limits for handling administrative procedures based on appeals. It ensures that cases are processed in a timely manner and efficiently. Unless otherwise stipulated in law, the standard timeframe for completing an administrative procedure is 15 working days from the day an appeal is received. The countdown commences once the administrative procedure has been officially initiated.

46 Code of the Republic of Kazakhstan No 350-VI of 29 June 2020 'Administrative Procedural and Process-Related Code of the Republic of Kazakhstan' (amended 1 January 2025) <<https://adilet.zan.kz/eng/docs/K2000000350>> accessed 4 February 2025.

Another key policy document, the Concept of Legal Policy of the Republic of Kazakhstan until 2030, is a strategic document that aims to modernise the legal system and align it with international human rights standards.⁴⁷ The Concept promotes legal education and awareness programmes, which are critical for developing legal consciousness among citizens. It emphasises transparency and public engagement in lawmaking.

Legal education and public awareness are crucial to building a strong legal state. Section 7 of the Concept states that an active civil society depends on a high level of legal culture among individuals and society. To achieve this, it is necessary to continuously promote legal literacy and encourage socially responsible behaviour based on constitutional values. Government agencies and local authorities are responsible for regularly informing the public about legal policies and new laws. The Concept highlights that various methods should be employed to accomplish this, including mass media campaigns, free legal literature, and public events. Furthermore, it acknowledges the significance of legal research in policymaking and proposes providing incentives and state aid to research institutions to enhance their role in legal development.

The National Plan for Human Rights and the Rule of Law, adopted on 8 December 2023,⁴⁸ sets 41 targets across nine key areas. These include the promotion of equal rights and opportunities for men and women; children's rights; the elimination of discrimination against women; human rights in criminal justice; enforcement of penalties and prevention of torture and ill-treatment; the right to freedom of association; the human rights of migrants, stateless persons, and refugees; the rights of persons with disabilities; the right to work, labour protection, and trade union activity; and human rights in business activities. The National Plan focuses on enhancing human rights protections and bringing Kazakhstan's legal framework into parity with international standards. It prioritises access to justice, prisoners' rights, and legal education, and aims to increase public engagement through awareness campaigns and improved legal aid services.

In summary, the analysis of these legal and policy acts shows that to foster a more robust legal culture in Kazakhstan, it is crucial to strengthen public legal education, increase institutional accountability, and ensure the effective implementation of laws. To improve legal culture and legal consciousness, constitutional provisions must be combined with effective law implementation, judicial reforms, and increased public engagement.

47 Decree of the President of the Republic of Kazakhstan No 674 of 15 October 2021 'On the approval of the Concept of Legal Policy of the Republic of Kazakhstan until 2030' <<https://adilet.zan.kz/kaz/docs/U2100000674>> accessed 4 February 2025.

48 Decree of the President of the Republic of Kazakhstan No 409 of 8 December 2023 'On the Plan of Action in the Field of Human Rights and the Rule of Law' <<https://adilet.zan.kz/kaz/docs/U2300000409>> accessed 4 February 2025.

6 CONCLUSION

This study explored the state of legal culture and legal consciousness in Kazakhstan through an analysis of the annual reports of the Ombudsman for Human Rights and legal acts. The findings provided important insights into the changing legal culture, regional differences in legal consciousness, and public trust in legal institutions. A growing awareness of citizens' rights and legal protection mechanisms is evident in the significant increase in complaints to the Ombudsman in 2023 compared to previous years. However, the number of systemic issues, particularly in the criminal justice system and prison conditions, highlights persistent challenges in ensuring access to justice and human rights protections. The Concept of Legal Policy until 2030 stresses the importance of strengthening legal education programmes to address these gaps.

As the findings indicate, human rights violations during pre-trial investigations, allegations of coercion, and mistreatment of convicts remain significant concerns in ensuring access to justice. Key recommendations to overcome these challenges include enhancing oversight mechanisms, legal reforms, improving investigative standards, and stronger anti-torture measures.

In conclusion, the study found that there are still significant challenges in ensuring access to justice and protecting human rights in Kazakhstan, which can negatively impact the legal culture and legal consciousness in Kazakhstan. Addressing these issues requires meaningful legal reforms, public education, and institutional strengthening.

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Competing interests: No competing interests were disclosed.

Disclaimer: The authors declare that their opinion and views expressed in this manuscript are free of any impact of any organizations.

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EDITORS

Managing editor – Mag. Bohdana Zahrebelna, **English Editor** – Julie Bold.

Ukrainian language editor: Lilia Hartman.

ABOUT THIS ARTICLE

Cite this article

Bakirov D, Myrzatayev N, Ospanov K, Zhangazyeva A and Suleimenova S, 'Legal Culture and Legal Consciousness in Kazakhstan: an Analysis of the Annual Reports of the Ombudsman for Human Rights and Legal Acts' (2025) 8(3) Access to Justice in Eastern Europe 1-25 <<https://doi.org/10.33327/AJEE-18-8.3-a000105>> Published Online 18 Jun 2025

DOI <https://doi.org/10.33327/AJEE-18-8.3-a000105>

Summary: 1. Introduction. – 2. Methodology. – 3. Evolution of Legal Culture and Legal Consciousness in Kazakhstan. – 4. Literature Review. – 5. Findings and Discussion. – 5.1. *Complaints as Indicators of Legal Culture and Legal Consciousness.* – 5.2. *Human Rights in Criminal Proceedings and Rights of Convicts.* – 5.3. *Legal Education and Public Engagement.* – 5.4. *Analysis of Key Legal Acts in the Context of Legal Culture and Legal Consciousness in Kazakhstan.* – 6. Conclusion.

Keywords: legal culture, legal consciousness, Kazakhstan, human rights, Ombudsman for Human Rights.

DETAILS FOR PUBLICATION

Date of submission: 06 Feb 2025

Date of acceptance: 16 Apr 2025

Online First publication: 18 Jun 2025

Whether the manuscript was fast tracked? - No

Number of reviewer report submitted in first round: 4 reports

Number of revision rounds: 1 round with major revisions

Technical tools were used in the editorial process:

Plagiarism checks - Turnitin from iThenticate <https://www.turnitin.com/products/ithenticate/>

Scholastica for Peer Review <https://scholasticahq.com/law-reviews>

АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ПРАВОВА КУЛЬТУРА ТА ПРАВОВА СВІДОМІСТЬ У КАЗАХСТАНІ: АНАЛІЗ ЩОРІЧНИХ ЗВІТІВ УПОВНОВАЖЕНОГО З ПРАВ ЛЮДИНИ ТА НОРМАТИВНО-ПРАВОВИХ АКТІВ

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АНОТАЦІЯ

Вступ. Правова свідомість та правова культура – це взаємопов’язані, але різні поняття. Правова свідомість – це сукупність ідей, поглядів, переконань та почуттів людей щодо права, законності та справедливості. Вона відображає ставлення суспільства чи окремої особи до права. Правова культура – це ширше поняття, яке містить не лише рівень правосвідомості, але й ступінь впровадження правових норм у суспільстві, а також правомірну поведінку громадян. Розвиток правової свідомості та культури необхідний для побудови правової держави та дотримання демократичних принципів. Вивчення цих елементів важливе для оцінки ефективності політики виконання зобов’язань щодо прав людини та для визначення ключових напрямків зміцнення справедливості та рівноправ’я.

Методи. У дослідженні використовувалися методи документального та правового аналізу. Було вивчено правову культуру та правову свідомість у Казахстані за допомогою аналізу щорічних звітів Уповноваженого з прав людини за 2019–2023 роки, оскільки вони містять авторитетні оцінки стану прав людини, правової свідомості та доступу до

правосуддя в Казахстані. Крім того, у статті було проаналізовано чинне законодавство та програмні документи, що стосуються правової культури та правової свідомості в Казахстані, зокрема Конституцію Республіки Казахстан, Концепцію розвитку правової політики в Республіці Казахстан до 2030 року та Національний план дій щодо прав людини та верховенства права.

Результати та висновки. У статті було виявлено динаміку суспільної правової свідомості та проблеми адаптації національної політики до світових стандартів у сфері прав людини. Результати дослідження були розділені на три основні теми: скарги як показники правової культури та правової свідомості; права людини в кримінальному судочинстві та права засуджених; а також правова освіта та залучення громадськості. Як показують результати дослідження, порушення прав людини під час досудового розслідування, заяви про примус та жорстоке поводження із засудженими залишаються суттєвою проблемою у забезпеченні доступу до правосуддя в Казахстані. Ці результати висвітлюють прогалини в інституційній підзвітності та реалізації політики, наголошуючи на постійних труднощах у захисті прав людини в межах системи кримінального правосуддя та судовій системі. Аналіз ключових нормативно-правових актів у контексті правової культури та правової свідомості показав, що розвиток сильної правової культури в Казахстані вимагає низки реформ, спрямованих на підвищення рівня правової освіти населення, інституційної підзвітності та ефективного впровадження законів. У статті було зроблено висновок, що для сприяння правовій культурі та правовій свідомості в Казахстані вкрай важливо вирішувати виявлені системні проблеми за допомогою правових реформ, освіти громадськості та зміцнення інституцій.

Ключові слова: правова культура, правова свідомість, Казахстан, права людини, Уповноважений з прав людини.