



Central Asia: Protests crushed, NGOs under pressure and activists intimidated

Written statement by International Partnership for Human Rights (IPHR, Belgium); Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR, Kazakhstan); the Legal Prosperity Foundation (LPF, Kyrgyzstan); Turkmen Initiative for Human Rights (TIHR, based in exile in Austria); and the Association for Human Rights in Central Asia (AHRCA, based in exile in France) to the 2019 OSCE Human Dimension Implementation Meeting¹

The space for civil society remains narrow in Central Asia as the authorities of the region restrict freedom of association, peaceful assembly and expression in ways that contradict their international human rights obligations and commitments. The harsh response of the Kazakhstani authorities to the mass protests surrounding the presidential elections held in June 2019 cast a shadow over the beginning of new President Kassym-Jomart Tokayev's period in office. The authorities have yet to properly investigate the documented violations of the rights of peaceful protesters during these and other protests held this year. Since taking office in late 2017, Kyrgyzstan's President Sooronbay Jeenbekov has adopted a more constructive approach to civil society compared with his predecessor. However, as in other countries of the region, NGOs still face widespread mistrust and suspicion, especially if they work on minority rights and other sensitive issues. Uzbekistan's President Shavkat Mirziyoyev has set out to enhance the role of civil society but has failed to initiate systematic measures to end the longstanding pattern of repression and engage in open dialogue with civil society actors. In Tajikistan, civil society also remains under pressure, as recently highlighted by several UN human rights bodies. The Turkmenistani authorities strictly control civil society space and intimidate, harass and silence those who criticize and challenge the regime.

Below these and other issues are described in more detail.

Kazakhstan

In Kazakhstan, gross violations of the right to peaceful assembly have taken place since March 2019. As UN Human Rights Commissioner Michelle Bachelet pointed out at the opening of the 42nd UN Human Rights Council session on 9 September 2019, “a wave of peaceful protests since March has been met with the arrests of over 4,000 people” in the country.² Violations peaked as the authorities responded harshly to peaceful protests held in Almaty, Nur-Sultan (previously Astana) and other cities in connection with the presidential elections on 9 June 2019. During several days of protests, police and special forces detained thousands of peaceful protestors, often using excessive force. Police also rounded up passers-by and briefly detained several journalists and monitors who were covering the protests.³ Many of those detained were held for 10 hours or more without being allowed to contact their relatives or have access to legal assistance, and several hundred people were warned, fined or sentenced to periods of detention of up to 15 days following court hearings that violated due process and fair trial standards.⁴ The authorities have yet to initiate thorough and impartial investigations into the violations documented during these protests.

While national law requires public organizations to obtain official registration to operate lawfully in the country, some NGOs addressing issues that the authorities deem sensitive have been unable to register. For example, the authorities have repeatedly returned the applications for registration of Feminita, which defends the rights of LBQ women, sex workers and women with disabilities, and Atajurt, which has documented the brutal crackdown on the Kazakh and other ethnic minorities in China’s Xinjiang province.⁵ Independent trade unions also continue to experience serious obstacles to registration. The country’s largest independent trade union association, the Confederation of Independent Trade Unions of Kazakhstan was closed down by court order in 2017. Its leader Larisa Kharkova is still serving the sentence she received when convicted on criminal charges brought against her in retaliation for her trade union activities in the same year: four years of court-imposed restrictions on her freedom of movement, as well as a five-year ban on holding leading trade union positions.⁶

The pattern of politically motivated prosecution of independent civil society activists, trade union leaders and lawyers remains of serious concern. In two recent cases that attracted wide attention, the authorities used criminal prosecution as a means to silence rights activist Serikzhan Bilash, who has campaigned on behalf of ethnic minorities in China’s Xinjiang province, and trade union leader Erlan Baltabay, who has spoken out in support of independent trade unions. Bilash, who went on trial in August 2019 after being held under house arrest for months on charges of “inciting national discord”, eventually agreed to plead guilty and end his activism in exchange for escaping a seven-year prison sentence.⁷ Baltabay was handed a seven-year prison sentence in July 2019 on charges of “embezzling trade union funds”, charges that have previously been used against other outspoken trade union leaders.⁸ However, he was subsequently amnestied under the terms that he “repented” and “admitted his guilt”, and his sentence was replaced with a fine.⁹ The authorities have also brought criminal charges against several peaceful protesters because of their alleged involvement in the banned opposition movement Democratic Choice of Kazakhstan, which is exile-led but operates in practice through social networking sites.¹⁰ The names of these individuals have been added to a civil society list of political prisoners in Kazakhstan, which currently features 20 names.¹¹ Among them is civil society activist Max Bokayev, who was sentenced to five years in prison in 2016 because of his role in peaceful protests against land reforms.

Recently youth activists such as Beibarys Tolymbekov and human rights lawyers such as Aiman Umarova have also been subjected to intimidation and harassment.¹² After the presidential elections, civil society monitors were pressured to stop drawing attention to violations witnessed during the elections.¹³

Kyrgyzstan

Since taking office in November 2017, Kyrgyzstan's current President Sooronbai Jeenbekov has attempted to ensure a more constructive relationship with the country's vibrant civil society, in keeping with his pre-election promise. This is a welcome change in approach from that of his predecessor. However, human rights NGOs still often face negative and suspicious attitudes and members of nationalist movements harangue and attack civil society actors, accusing them of undermining national values and stability with the help of foreign funding. Nationalist movements have particularly, but not exclusively, targeted organizations that promote women's and LGBTI rights. On 23 May 2019, a group of individuals who introduced themselves as members of the Youth Patriotic Movement interrupted a meeting organized by the Kyrgyz NGO Coalition against Torture, aggressively demanding it to end.¹⁴

Some representatives of the authorities have also called for new restrictions on NGO activities. For example, several members of parliament and the deputy head of the national security services made such calls and sought to revive the controversial initiative to adopt a "foreign agents" law following a civil society march in support of equal rights and opportunities on 8 March 2019, which critics dubbed a "gay parade".¹⁵ The parliament previously rejected a "foreign agents" draft law in 2016.

Human rights defender Azimjan Askarov continues to serve a life sentence, contrary to the 2016 decision issued by the UN Human Rights Committee, which found that he had been arbitrarily detained, tortured and denied fair trial rights and should be immediately released. The Kyrgyzstani authorities failed to comply with this decision, instead sending the case back for retrial, which was conducted based on the results of the initial, flawed investigation and ended with the Chui Regional Court upholding his sentence unchanged in January 2017. In July 2019, this court again upheld Askarov's sentence, following his request for a review of his case in view of recent amendments to the Criminal Code. He was not allowed to attend the quick hearing.¹⁶ The defence said it would appeal the decision to the Supreme Court. During his nine years behind bars, Askarov's health has seriously deteriorated and he has not received adequate medical care for his health problems. IPHR and other human rights NGOs have therefore called on the Kyrgyzstani government to release Askarov to a safe third country for urgent medical examinations and treatment.¹⁷ Recently the authorities renewed their attempts to seize Askarov's house to secure the payment of compensation he was ordered to pay when convicted in 2010, thereby putting his wife at risk of becoming homeless.¹⁸

Peaceful protests regularly take place without interference in Kyrgyzstan. However, in some cases, the authorities selectively restrict the right to freedom of assembly. For example, a local court banned protests on the central streets of Bishkek between 1 and 20 June 2019 in connection with the meeting of the Shanghai Cooperation Organization that was taking place in the capital. In April 2019, the mayor of Bishkek caused an outcry among human rights defenders when calling for a moratorium on demonstrations in the capital, saying that they disturb the lives of residents, tourism and business and waste public resources.¹⁹ He made the statement as the supporters of opposition politician Omurbek Babanov were planning a

large demonstration to mark the politician's return to the country.²⁰ Babanov was forced to leave the country after running during the presidential elections in 2017.

Tajikistan

In the last few years, the space for civil society has been shrinking in Tajikistan and NGOs have been subjected to growing pressure. When reviewing Tajikistan's implementation of the International Covenant on Civil and Political Rights (ICCPR) in July 2019, the UN Human Rights Committee raised concerns about the "chilling effect" of recent NGO legislation, "frequent inspections of NGOs resulting in fines and even closure of some NGOs" and "undue restrictions" on the exercise of freedom of peaceful assembly.²¹

Although NGOs were already subjected to close scrutiny by the authorities, amendments to the Law on Public Associations that entered into force earlier this year introduced additional reporting obligations for such organizations. The amendments also included vaguely worded provisions charging the Ministry of Justice, which oversees the work of public associations, with informing the relevant authorities if they suspect that an organization may be used as a cover for the financing of terrorism or extremism activities. Civil society groups are concerned that these provisions may result in undue restrictions of the activities of NGOs.²² It is also highly problematic that the government failed to include civil society organizations in the process of drafting a new Law on Non-Commercial Organizations, a law that will directly affect them. NGOs were only given the opportunity to provide comments in May 2019, by which stage the draft law was almost finalized. The draft law contains problematic provisions; in particular, NGOs fear that some organizations may face difficulties retaining their legal status under the new law given the lack of clear wording on this issue in the draft shared with them.²³

In its concluding observations issued in July 2019, the UN Human Rights Committee also expressed concern about intimidation and harassment of independent journalists, opposition members, and lawyers working on politically sensitive cases in Tajikistan. Recent cases of concern include that of journalists working with the Tajik Bureau of Radio Free Europe/Radio Liberty (RFE/RL) who have been deprived of accreditation²⁴ and that of the chair of the Union of Lawyers, Saidbek Nuritdinov, as well as other lawyers who have been threatened and harassed because of their professional activities.²⁵ The pattern of persecution also includes the arrest and imprisonment of inconvenient individuals following unfair trials held in violation of international standards. A case that has attracted wide international attention is that of lawyer Buzurgmehr Yorov, who was arrested in September 2015 and sentenced to close to 30 years in prison on a range of spurious charges after taking on the defense of leaders of the banned opposition Islamic Renaissance Party of Tajikistan (IRPT). In May 2019, the UN Working Group on Arbitrary Detention issued its opinion on this case, deeming Yorov's detention unlawful and calling for his immediate release.²⁶

Another UN body, the UN Working Group on Enforced or Involuntary Disappearances, which visited Tajikistan in July 2019, expressed concern about allegations of the forcible return and enforced disappearance of members of opposition movements residing abroad.²⁷ In one such case documented by international human rights NGOs, the leader of the banned Group 24 opposition movement, Sharoffiddin Gadoev, was arbitrarily detained in Russia, taken to Tajikistan and held for two weeks without charge before being transferred back to Europe.²⁸

Turkmenistan

The Turkmenistani authorities tightly control the dissemination of information inside the country, suppress dissent and treat any independent civil society activity as a threat. Independent human rights NGOs cannot operate in the country in the current conditions and exiled groups are under pressure. In addition to being blocked in Turkmenistan, the website of Austria-based Turkmen Initiative for Human Rights (TIHR) is regularly subjected to cyber attacks, which the organization believes are initiated by the Turkmenistani security services. Recently the site has been the target of malicious attacks on an almost monthly basis, resulting in an ongoing threat to its functioning. The Turkmenistani authorities also try to discredit information posted by TIHR and other independent exile-based sources, using state media to challenge and attack their publications.²⁹

Turkmenistan-based journalists who cooperate with foreign-based media, civil society activists and others who openly criticize the authorities face the constant risk of intimidation and harassment. For example, journalist Soltan Achilova, who currently cooperates with TIHR, has repeatedly been subjected to harassment. In March 2019, Achilova was stopped at Ashgabat airport and told that she had been blacklisted for travel abroad when she was on her way to Georgia to participate in an international seminar.³⁰ The migration services later confirmed the ban in writing, without providing any explanation for it.³¹ Five months later, in August 2019, the journalist was informed that the ban had been lifted.

The Turkmenistani authorities also continue to use politically motivated imprisonment as a tool to intimidate and silence government critics. Among the victims of this practice are dissident Gulgeldy Annaniyazov, cotton harvest monitor Gaspar Matalaev and journalist Saparmed Nepeskuliev. Annaniyazov was arrested on charges of illegal border crossing after returning to Turkmenistan in 2008 and subsequently handed an 11-year prison sentence. This year he had five more years added to his sentence shortly before it was due to expire and he remains behind bars.³² Matalaev, who was given a three-year sentence on fraud and bribery charges following an unfair trial in 2016,³³ was released from prison in early September 2019 after serving his entire sentence.³⁴ Nepeskuliev was released in ill health in May 2018 after serving out a three-year sentence, in his case on charges of possessing a banned medicine. In March 2019, TIHR learned that the journalist had been able to leave Turkmenistan to undergo treatment abroad.³⁵ The UN Working Group on Arbitrary Detention has deemed the detention of all these three men unlawful.

As documented by the Prove They Are Alive NGO coalition, over 100 people imprisoned following politically motivated and unfair trials remain disappeared within Turkmenistan's prison system, with family members not having received any information about the fate and well-being of these individuals for years.³⁶

The Turkmenistani authorities regularly mass mobilize state employees, students and other residents for official celebrations, parades and other public events, at the threat of dismissal or other repercussions. This practice is contrary to the right to freedom of assembly, a key element of which is voluntary participation in events. Those targeted are also often required to help cover the costs of mass events. For example, residents were required to contribute funds to pay for the purchase of bikes, tracksuits and other equipment for a mass biking event held on 3 June 2019. This day is now marked as global World Biking Day at Turkmenistan's initiative.³⁷

Uzbekistan³⁸

Uzbekistan's current government has stated its intent to allow space for civil society to operate. Since President Mirziyoyev took office, the authorities have also taken some welcome steps, such as the release of a number of activists and journalists previously imprisoned on politically motivated grounds, the adoption of a presidential decree aimed at enhancing the role of civil society organizations and the invitation of international human rights NGOs (including IPHR) to visit the country. However, over the past year, independent civil society activists, human rights defenders and journalists have continued to face reprisals for their peaceful activities. Activists recently released after serving long prison sentences, as well as other activists have been subjected to state surveillance and are believed to have had their phones tapped prior to and during the visits of international experts and foreign delegations. At least four individuals remain behind bars after having been convicted in unfair trials on charges believed to have been brought in retaliation for their criticism of the authorities. Three of them have been imprisoned since President Mirziyoyev came to power.

Attempts by the former political prisoners and human rights defenders Azam Farmonov, Dilmurod Saidov and Agzam Turgunov to register a new, independent human rights NGO, "Restoration of Justice" have to date been unsuccessful. Since February 2019, their application to register this organization has been rejected three times on various pretexts, and they are now only allowed to reapply in November 2019, once three months have passed since the most recent rejection. They are considering appealing to court against the rejections. The three activists have also been subjected to intimidation and harassment, apparently because of their attempts to set up the new NGO. In the case of Turgunov, this has included persistent surveillance, checks and threats by police, local authorities and security services. On 11 September 2019, he was summoned by police and questioned for several hours -- particularly as to whether he is in contact with the exiled leader of the Erk opposition party, and what he thinks of this party. In addition, several times in the last year Turgunov has been convicted and fined on charges of administrative offences believed to have been brought in retaliation for his human rights activities.

Since the NGO Ezgulik obtained registration in 2003, no independent human rights organization has been able to register in Uzbekistan. At the same time, national law prohibits the activities of unregistered NGOs and provides for both administrative and criminal penalties for involvement in such activities. There have been reports of pressure and intimidation by state officials on lawyers who assist with attempts to legally register human rights NGOs. Far-reaching restrictions on the operation of NGOs also remain in place. While new regulations adopted since President Mirzoyev came to power no longer require NGOs to obtain government approval in order to conduct events, NGOs are still required to inform the authorities about planned events several days in advance. They are also subject to burdensome reporting obligations and face significant barriers on receiving foreign funding. As a result, the operating environment for NGOs remains highly challenging.

The Uzbekistani government has also failed to show openness towards engaging in constructive dialogue with local independent civil society groups. For example, local civil society groups were virtually excluded from the Asian Human Rights Forum, which was organized by the Presidential Human Rights Center in Samarkand in November 2018 and attended by representatives of the government, international organizations and NGOs from other countries.

Recommendations

The authorities of Kazakhstan should:

- Conduct independent, impartial and thorough investigations into all allegations of the excessive use of force, due process violations, as well as other human rights violations perpetrated in connection with peaceful protests held since March 2019, in particular those on 9-11 June 2019, and hold accountable all officials who are guilty of violations.
- Adopt concrete measures to bring national law and law enforcement practice on assemblies into compliance with international standards.
- Ensure that public organizations and trade unions are not denied registration on arbitrary grounds.
- Put an end to intimidation and harassment, including the use of politically motivated charges against civil society activists, human rights lawyers and trade union leaders.

The authorities of Kyrgyzstan should:

- Seek ongoing dialogue with civil society, promote positive attitudes toward its representatives, and condemn, investigate and hold accountable the perpetrators of hostile verbal and physical attacks on civil society groups and activists.
- Release Azimjan Askarov and allow him to go to a safe third country where he can have access to the medical examinations and treatment he urgently needs; and put an end to the attempts to seize his house.
- Safeguard the right to freedom of peaceful assembly, in accordance with national and international standards, in all cases and refrain from imposing selective, arbitrary restrictions on this right.

The authorities of Tajikistan should:

- As called for by the UN Human Rights Committee, ensure that all existing and future laws and regulations governing NGOs are in full compliance with the ICCPR and do not lead in practice to undue control over or interference in the activities of NGOs.
- In accordance with the recommendations of the UN Human Rights Committee, put an end to intimidation and harassment, including the use of criminal charges as a form of retaliation against independent journalists, opposition members and lawyers.
- Comply with the decision of the UN Working Group on Arbitrary Detention in the case of Buzurgmehr Yorov and commit to implementing the recommendations of the UN Working Group on Enforced or Involuntary Disappearances in its forthcoming report.

The authorities of Turkmenistan should:

- Take concrete steps to promote an environment in Turkmenistan in which human rights groups can operate openly and without the fear of persecution and cease discrediting and obstructing the work of exiled Turkmenistani human rights groups.
- Put an end to intimidation and harassment of independent journalists, civil society activists and other critical voices, including the use of arbitrary travel bans.
- Release individuals imprisoned on politically motivated grounds; and provide information about the fate and whereabouts of those who have disappeared in prison.

- Stop forcibly mobilizing residents for public mass events.

The authorities of Uzbekistan should:

- Cease the surveillance and harassment of independent journalists, human rights defenders and civil society activists and ensure that no one is imprisoned on politically motivated grounds.
- Bring legislation, regulations and practice on the registration, operation and funding of NGOs in line with international human rights standards and allow such organizations to register in a simple, transparent procedure and carry out their activities without undue state interference.
- Ensure that no further obstacles are put in the path of the registration of the human rights NGO "Restoration of Justice" and stop pressuring the founders of the organization.
- Welcome and facilitate constructive dialogue between the authorities and local civil society.

¹ The statement has been prepared for Working session 6: Fundamental freedoms, including Freedom of peaceful assembly and association, 19 September 2019.

² Opening statement by UN High Commissioner for Human Rights Michelle Bachelet, 9 September 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24956&LangID=E>

³ For more information about these developments, see update prepared for the CIVICUS Monitor by KIBHR and IPHR, August 2019, <https://www.iphronline.org/kazakhstan-change-of-power-and-marred-elections-protests-and-crackdowns.html>

⁴ See joint statement by KIBHR and the Charter for Human Rights, 10 June 2019, https://bureau.kz/novosti/sobstvennaya_informaciya/sovместное_obraшenie_den_vyborov/

⁵ See more in update prepared for the CIVICUS Monitor by KIBHR and IPHR, which was posted in August 2019, <https://www.iphronline.org/kazakhstan-change-of-power-and-marred-elections-protests-and-crackdowns.html>

⁶ See more in update prepared by KIBHR and IPHR for the CIVICUS Monitor, August 2017, <https://www.iphronline.org/kazakhstan-litany-abuses-continues-even-expo-2017-spotlight.html>

⁷ The Diplomat, "What's the Price of Freedom? Kazakh Activist Accepts Plea Deal," 19 August 2019, <https://thediplomat.com/2019/08/whats-the-price-of-freedom-kazakh-activist-accepts-plea-deal/>

⁸ KIBHR, "Дело принципа", 17 July 2019, https://bureau.kz/novosti/sobstvennaya_informaciya/delo_principa/

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¹¹ The list is available at: http://tirik.info/dir/wpbdp_category/list01/page/4/

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¹³ KIBHR, "Заявление по прошедшим президентским выборам в Республике Казахстан", 24 June 2019, https://bureau.kz/novosti/zayavleniya_i_obraшeniya/zayavlenie_po_proshedshim_prezidentskim_vyboram_v_rk/

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