

OSCE Human Dimension Implementation Meeting 2018

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Working Session 4**Statement by Freedom House****The Systematic Repression of Lawyers in Central Asia and Eastern Europe**

Freedom House is gravely concerned by an apparent systematic crackdown on the legal profession by a number of OSCE participating States. Since 2017, restrictive legislative changes and punitive measures targeting individual lawyers were especially egregious in Azerbaijan, Tajikistan, Kazakhstan, and in Crimea. The intense persecution of the legal profession undermines individuals' essential right of equal access to justice, especially those who openly call for government accountability, such as human rights defenders, journalists, social and political activists. Often, legal action is the only available recourse for individuals and associations to seek redress for violations of their fundamental rights and freedoms.

Due to governments' threats both to lawyers and their would-be clients, the number of lawyers able to take on human rights cases is dwindling. Without a strong, independent judiciary and lawyers free from harassment, however, governments cannot claim to be fulfilling their obligations to protect the fundamental human rights of their citizens. Attacking the legal profession appears to be the final step in dismantling a system in which citizens can find recourse against unjust treatment by their own governments within the existing legal framework.

In Azerbaijan, the national parliament amended the 'Code of Civil and Administrative Procedure' and the 'Bar Act' in October 2017 to state that only members of the Azerbaijan Collegium of Advocates can represent clients in court, substantially cutting the proportion of lawyers to the population to one of the lowest rates in the region.¹ Furthermore, authorities summarily disbar prominent human rights lawyers and deny accreditation to junior advocates. Lawyers including Khalid Baghirov, Aslan Ismayilov, Alaif Hasanov, Elchin Namazov, Yalchin Imanov, Farhad Mehdiyev, Muzaffar Bakhshaliyev, Annaghi Hajibeyli, Aliabbas Rustomov, and Intigam Aliyev have all had their bar membership suspended or revoked shortly after raising human rights concerns on behalf of clients or criticizing the government.² Junior lawyers are unable to join the Collegium of Advocates due to its bias against lawyers connected to human rights cases. Samed Rahimli, known for taking on political contentious cases, describes his interviewers from the Collegium of Advocates as being openly hostile towards him and accusing him of trying to destroy the collegium. This systematic persecution of human rights lawyers has left the country with only six practicing human rights lawyers, according to Intigam Aliyev, a human rights lawyer previously jailed for his work.³

¹ Adilgizi, Lamiya. "Azerbaijan's Unlucky Lawyers." *OpenDemocracy*, 20 Dec. 2017, www.opendemocracy.net/od-russia/lamiya-adilgizi/azerbaijans-unlucky-lawyers.

² Azerbaijan: Disbarment of Human Rights Lawyer Irada Javadova, Front Line Defenders, 29 June 2018, Azerbaijan: Disbarment of human rights lawyer Irada Javadova.

³ Mahmudov, Kamran. "Left without a Defence: Azerbaijan's Purge of Human Rights Lawyers." *OC Media*, 31 Aug. 2018, oc-media.org/left-without-a-defence-azerbaijans-purge-of-human-rights-lawyers/.

In Tajikistan, police have systematically arrested lawyers since 2014 in a broad campaign to silence political opposition both within and outside of the country. Lawyers representing the Islamic Renaissance Party of Tajikistan (IRPT), an opposition group the government considers extremist, are routinely charged with extremism or corruption after taking cases related to the IRPT. Shortly after lawyer Buzurgmehr Yorov reported that his client, Mahmatali Hayit, the deputy chairman of the IRPT, had been subjected to torture and called on other lawyers to stand up for human rights, authorities arrested him and later sentenced him to 23 years in prison.⁴ Lawyer Nuriddin Makhkamov was convicted on terrorism charges after he defended members of the IRPT.

Tajikistan also engages in collective punishment by prosecuting family members and friends of lawyers who take on political cases. Authorities arrested Yorov's brother, sister, and lawyer.⁵ Lawyer Muazzamakhon Kadyrova, who agreed to provide both Yorov and Makhkamov their legal defense, was forced to flee the country or face charges. In a recent, rare instance, Tajikistan freed prominent human rights lawyer Shurat Kudratov on August 24, after he served nearly four years behind bars for representing an opposition political figure. Freedom House welcomes the release of Kudratov but condemns the Tajikistan government's unwillingness to free all those imprisoned for duly exercising the fundamental obligations of the legal profession.

In Kazakhstan, new laws and old intimidation tactics severely hinder human rights lawyers. In July, the government enacted the 'On the Professional Activities of Advocates and Legal Assistance' Act, allowing the Ministry of Justice to appoint representatives to the bar association's disciplinary commissions – giving the executive branch significant power in disciplining lawyers. The government also revoked the licenses of lawyers who spoke out against the new law, including Khamida Aitkaliyeva and Larisa Yakubenko. They later won a court ruling dismissing the suit against them, but in March 2018, the Ministry filed a lawsuit against Yakubenko's husband, Valeriy Yakubenko, to revoke his license to practice law as well.⁶ Similar to Tajikistan, the government of Kazakhstan is persecuting lawyers of banned organizations. Botagoz Jardemalie, who had advised a key political opposition figure, Mukhtar Ablyazov, fled the country under grave threat and was sought by Kazakhstan through Interpol under a notice that was later canceled as politically motivated.⁷ Her brother, Iskander Yerimbetov, is on trial, accused of embezzlement and has undergone torture in detention; many human rights defenders believe his arrest is tactic directed against Jardemalie because of her work with the opposition.

Kazakhstan's authorities continue to harass human rights lawyers through punitive actions under bogus pretexts.⁸ Advocate Baurzhan Azanov was charged with "dissemination of false information" after he

⁴ "Buzurgmehr Yorov." *Tom Lantos Human Rights Commission*, 14 Aug. 2018, humanrightscommission.house.gov/defending-freedom-project/prisoners-by-country/Tajikistan/Buzurgmehr-Yorov.

⁵ "Joint Letter to the EU Regarding the Human Rights Situation in Tajikistan." Human Rights Watch, 24 July 2018, www.hrw.org/news/2018/07/23/joint-letter-eu-regarding-human-rights-situation-tajikistan.

⁶ Журсин, Жанагуль. "Минюст Подал в Суд Ещё На Одного Актюбинского Адвоката." Радио Азаттык, Радио Азаттык, 3 Apr. 2018, rus.azattyq.org/a/29141734.html.

⁷ "Botagoz Jardemalie." *Observatoire International Des Avocats*, www.protect-lawyers.com/en/lawyer/botagoz-jardemalie/.

⁸ "Kazakhstan: ICJ Deplores New Law Restricting Independence of Lawyers." *International Commission of Jurists*, 11 July 2018, www.icj.org/kazakhstan-icj-deplores-new-law-restricting-independence-of-lawyers/.

became a *pro bono* advocate for a child rape victim and regularly highlighted his legal work on the case through updates on his Facebook page. The charges against him alleged deliberate attempts to undermine the confidence of the population in the law-enforcement system of Kazakhstan.⁸ In another case, the International Legal Initiatives Foundation, an association of lawyers which provides free legal aid to human rights abuse victims, was accused of profiting from foreign contributions and of failing paying corporate taxes, despite being a non-profit organization. The organization was forced to pay exorbitant fines.⁹

In Crimea, lawyers representing Crimean Tatars, a Muslim minority group in Crimea vocal in their opposition to the Russian annexation of the peninsula, are routinely harassed. Emil Kurbedinov, who defended several politically motivated prosecutions in Crimea, was sentenced by the *de facto* authorities to 10-days' administrative detention because of an alleged "extremist post" on social media. Police searched Kurbedinov's home and office and forbade him from performing work for his clients during his detention. In April 2018, the Bar Association of Moscow began proceedings to disbar Mark Feigin, who also represented prominent Crimean Tatar leaders such as Ilmi Umerov and Akhtem Chiygoz. He was accused of insulting on Twitter the lawyer Stalina Gurevich, who represented a Ukrainian journalist and blogger who reportedly filed a defamation suit against Feigin; Feigin maintains that he is being politically persecuted¹⁰. Nikolay Polozov, who also served as a lawyer for Umerov and Chiygoz, was similarly accused of insulting a public prosecutor by the Russian prosecutor's office. The investigation was later thrown out due to lack of evidence, but authorities continue to harass Polozov.¹¹

Whether through legislation or police or judicial actions against individual lawyers, the message is clear that human right lawyers who work through the legal defense systems and seek fair and unbiased justice for their clients are not welcome in these countries.

Recommendations

Freedom House urges the OSCE to hold the responsible governments accountable for this systematic harassment of lawyers. In particular, the OSCE should utilize trial monitoring to strengthen fair trial guarantees and encourage participating States to implement reforms based on rule of law.

Freedom House calls on the governments of Azerbaijan, Tajikistan, Kazakhstan, the *de facto* authorities of occupied Crimea, as well as other States that are considering statutory and punitive restrictions of the legal profession to:

- immediately restore licenses and bar memberships to lawyers disbarred or suspended due to their professional assistance to victims of human rights abuses and abuse of power;
- immediately cease prosecution and fully restore the constitutional and professional rights of lawyers prosecuted or convicted on spurious charges and through faulty adjudication processes because of their work with human rights defenders, journalists, civic or political actors critical of the government;

⁹ "Judicial Harassment of the International Legal Initiative Foundation." *Front Line Defenders*, 4 July 2018, www.frontlinedefenders.org/en/case/judicial-harassment-international-legal-initiative-foundation.

¹⁰ Talant, Bermet. "Sushchenko's Lawyer Feygin Stripped of Attorney's License." *KyivPost*, 25 Apr. 2018, www.kyivpost.com/ukraine-politics/sushchenkos-lawyer-feygin-stripped-attorneys-license.html.

¹¹ "Crimea: Defense Lawyers Harassed." *Human Rights Watch*, 30 Jan. 2017, www.hrw.org/news/2017/01/30/crimea-defense-lawyers-harassed.

- live up to the commitments made under the Final Helsinki Accord, by developing justice systems that guarantee the respect of everyone's fundamental rights and freedoms in a fair and independent manner;
- seek assistance from the Office for Democratic Institutions and Human Rights to review existing and draft legislation seeking to reform the justice system or regulate its actors, and implement proposed recommendations in good faith;
- make every effort possible to guarantee full independence of lawyers in accordance with the UN's Basic Principles on the Role of Lawyers.