



A matter of regional concern: Shrinking civil society space in Central Asia

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There is a growing trend in Central Asia, in which the authorities curtail fundamental rights and freedoms and clamp down on civil society in the name of ensuring stability. New restrictive legislation has been initiated and repressive measures taken against groups and individuals who criticize government policies and speak up for human rights, justice and rule of law. When visiting Central Asia in June 2015, UN Secretary General Ban Ki Moon spoke about “a shrinking democratic space” across the region and warned against using security threats to “place further limits on fundamental rights such as the freedoms of expression, assembly and association”. He emphasized that “experience has shown this only backfires” and that such an approach will only foster frustration and contribute to instability in the long run. He concluded: “I see this phenomenon on the rise in the region and it troubles me greatly”.¹

In this statement, we highlight a number of recent developments concerning the situation of civil society in the five Central Asian countries that are of serious concern to us.

Kazakhstan

The **new Criminal and Administrative Codes**, which entered into force in January 2015, contain a number of provisions that restrict freedom of expression, association and assembly and may be used to **penalize legitimate civil society activities**. Among others, the Criminal Code characterizes “leaders of public associations” as a separate category of offenders, a provision that could be used to arbitrarily target “inconvenient” individuals. Vaguely worded Criminal Code provisions on “inciting” social, national or



other “discord” and “spreading false information” have repeatedly been used to bring charges against civil society activists and other outspoken individuals.

Freedom of assembly is seriously violated in law and practice. Prior authorization is needed to hold any protest, and “illegal” ones are routinely dispersed and organizers and participants detained and held accountable. Well-known civil society activists are often “preventively” detained ahead of planned events, as recently happened to Ermek Natambayev, who was detained on 20 August 2015 and locked up for 20 days after announcing on Facebook that he planned to go to Republic Square in Almaty to protest the devaluation of the national currency. Following his Kazakhstan mission earlier this year, the UN Special Rapporteur on freedom of peaceful assembly and of association concluded that the government’s approach to regulating assemblies “deprives the right of its meaning”.²

The new Trade Union Law that entered into force in July 2014 undermines the freedom of association of trade unions by requiring mandatory affiliation to regional, branch or federal trade unions. **Hundreds of trade unions are at the risk of closure** because of the failure to re-register and comply with this requirement within the 1-year deadline set out by the new law. Local executive authorities have warned trade unions that have not re-registered that they may face liquidation lawsuits. Independent trade unions have reportedly been denied re-registration on questionable grounds.

Concerns have been expressed that **draft legislation currently under consideration** by the parliament **could result in that a new grant-making body is charged with overseeing the allocation of both state grants and other grants to NGOs.** Government representatives have said that the new provisions will not apply to NGO grants from foreign and international sources. NGO representatives have called for ensuring that the new provisions are worded so as to strictly limit their scope to state grants, as also recommended by the UN Special Rapporteur on freedom of peaceful assembly and of association.³

The opposition Communist Party was closed down by court in August 2015 because it allegedly had less than the 40 000 members required for the registration of political parties. **Opposition leader Vladimir Kozlov, poet/dissident Aron Atabek and human rights activist Vadim Kuramshin remain imprisoned** after being convicted on charges deemed politically motivated in unfair trials. There are concerns about their treatment in prison, including a pattern of penalizing them for alleged violations of prison rules, which prevents them from qualifying for improved prison conditions or release on parole.

Kyrgyzstan

The **draft “foreign agents” law under consideration by Kyrgyzstan’s parliament poses a serious threat to civil society.**⁴ If adopted, it may result in a similar witch-hunt on NGOs as in Russia after the entry into force of a similar law there. The draft law requires NGOs to adopt the stigmatizing label of “foreign agents” if they receive foreign funding and engage in “political activities”, a term that is so broadly defined that it could be applied to virtually any NGO activities. It also grants authorities new, broad powers to interfere in the internal affairs of NGOs and introduces problematic provisions on criminal liability for NGO representatives as a separate category of offenders.

In spite of widespread criticism of the draft “foreign agents” law, it was passed by the parliament in the first reading in early June 2015. Later the same month it was taken off the plenary agenda for additional

discussion at committee level. In case the consideration of the draft law is still pending by the time of the 4 October parliamentary elections, the new parliament may pick up where the previous one left it.

In the recent period, **civil society groups, activists and lawyers in Kyrgyzstan have increasingly been subjected to verbal attacks, intimidation and harassment.** Both media and public figures have accused NGOs of promoting the political interests of foreign donors and betraying national values. At a press conference in July this year, President Atambayev also made such statements.⁵

In a case of great concern in view of the integrity and confidentiality of the work of lawyers, **security service officials carried out searches of the Osh branch office of the Bir Duino-Kyrgyzstan Human Rights Movement, as well as the homes of two of its lawyers** in March 2015, confiscating case material related to dozens of individual cases. These searches were subsequently deemed unlawful by court in three separate rulings that were upheld by the Supreme Court in late June 2015.⁶ Bir Duino and its lawyers have continued their efforts to obtain justice in relation to the March events.

It has now been **five years since a life sentence was handed down to human rights defender Azimjan Askarov**, a victim of the miscarriage of justice that took place after the inter-ethnic violence in southern Kyrgyzstan in June 2010. The trial against him was marred by due process and fair trial violations, and credible allegations that he was tortured in pre-trial detention have never been properly investigated. Last year, the Supreme Court upheld a decision to discontinue a new investigation into his case. There are concerns that his health has deteriorated considerably in prison. In July 2015, Kyrgyzstan's government unilaterally terminated a cooperation agreement with the US government after the latter granted Askarov a prestigious human rights award.

Tajikistan

New legislation signed by the president in August 2015 **requires information about all funds received by public associations from foreign and international sources to be included in a special government register.** While the final version speaks about "notification" of funds, the provisions remain vaguely worded and do not provide any details on the notification procedure. This aspect was left to a government regulation currently being drafted. Both civil society⁷ and international human rights bodies⁸ have expressed concern that the new provisions may be used to restrict the work of NGOs in violation of international human rights standards.

In recent months, a **series of inspections of the activities and finances of NGOs have been carried out** by authorities without any clear reason being stated, and **well-known human rights NGOs have been singled out for punitive measures initiated by tax authorities.** Following a check of its financial documents, the Bureau for Human Rights and Rule of Law was ordered to pay a large fine corresponding to some 6000 EUR for alleged violations of the Tax Code in August 2015. Nota Bene is currently facing a lawsuit brought by the Tax Committee, which is requesting it to be closed down for allegedly taking advantage of gaps in the law when registering in 2009. As many other NGOs in Tajikistan, Nota Bene is registered as a "public foundation" with the Tax Committee rather than as a "public association" with the Ministry of Justice. Nota Bene was not given any prior warning. It is now challenging the lawsuit in court.

A **new Law on Assemblies** adopted in Tajikistan at the end of 2014 is more restrictive than the previous one and **limits the right to hold peaceful assemblies in ways that are not compatible with international**

human rights standards. In particular, it requires the organizers of assemblies to obtain permission in advance and contains broadly worded provisions on the grounds for prohibiting assemblies and the venues in which their conduct is limited. The law also does not provide for spontaneous assemblies.

The **new Law on the Bar and the Practice of Law** adopted earlier this year sets out a new qualification procedure for lawyers that **risks undermining their independence**, and additional amendments currently under consideration by the government would further tighten access to the legal profession. There are also concerns that **lawyers have been subjected to intimidation and harassment** because of their professional activities. Lawyer Shukhrat Kudratov is serving a five-year prison sentence on charges believed to have been motivated by his work, including on high-profile cases involving public figures.

The **Islamic Renaissance Party of Tajikistan** (IRPT), the country's largest opposition party, has been subjected to growing pressure in recent months and **is now facing closure**. In late August 2015, the Ministry of Justice sent a warning to the party⁹, stating that its activities are "illegal" because it does not have the number of branches required for political parties and carries out "religious propaganda".

Turkmenistan

As Turkmenistan's government continues to closely control different areas of society, quash criticism of official policies, and mass mobilize citizens for regime-praising events, the environment for civil society remains highly repressive.

The 2014 Law on Public Associations requires compulsory registration of associations, sets out strict registration rules for national-level organizations and grants authorities wide powers to oversee the activities and funding of associations. In practice, **the government promotes the role of GONGOs**, while current conditions as previously do not allow for independent civil society groups to operate.

The country's first-ever Law on Assemblies, which entered into force on 1 July 2015, is aimed at protecting the right to hold assemblies, but imposes a number of problematic restrictions on this right. There are concerns that the law **may be used to obstruct the organization of spontaneous, peaceful protests**, of which there has been a growing number in the past year.

Following the adoption of the 2012 Law on Political Parties, which created a legal basis for a multi-party system, **two more political parties were established** alongside the pre-existing presidential Democratic Party of Turkmenistan. However, **neither of these represents any independent political platforms**, and no independent parties are able to work in the country.

Several recent cases illustrate the vulnerability of individuals who are considered "inconvenient" by the authorities. Radio Free Europe/Radio Liberty correspondent Osmankuly Hallyev resigned this summer citing unprecedented pressure. Saparmamed Nepeskuliev, who works for the same service, went missing in July 2015 and was later reported to have been detained on charges of possessing "narcotics" and to have been sentenced to three years in prison last month. Horse-breeding expert Geldy Kyarizov, who fell out of favour with the government years ago, was prevented from travelling abroad with two of his family members in August 2015. Only several weeks later, on 14 September, was he allowed to leave the country and go to Russia – at first without his relatives.¹⁰ In yet another case, well-known civil society activist Natalia Shabunts had her private satellite dishes arbitrarily removed this summer by local officials. This

was done as part of a wider campaign against such antennas, which has restricted citizens' access to information from foreign channels.

Dozens of individuals imprisoned after flawed and politically motivated trials **remain disappeared**, including individuals convicted after the alleged assassination attempt on late President Niyazov in 2002. The authorities have failed to comply with international calls to make known their whereabouts and to grant them access to their lawyers and family members.

Uzbekistan

The civil society situation in Uzbekistan shows no signs of improving. While the government claims that there are over 8000 NGOs in the country¹¹, an overwhelming majority of these are government-controlled and funded so-called GONGOs. Most **independent human rights NGOs** continue to operate on an informal basis due to the **lack of opportunities to obtain mandatory registration**. In practice, the executive authorities deal with issues relating to the registration of NGOs with reference to internal, non-public instructions rather than provisions of the law. The National Security Service has reportedly listed independent human rights NGOs as **"not trustworthy"**, which blocks them from obtaining legal status. Recent regulations¹² reinforce restrictions on NGO activities by setting out a new procedure for NGOs to inform and obtain permission from the government for holding seminars, trainings and other events.

In the current conditions, **independent human rights defenders** experience serious difficulties to legally carry out their work, and opaque bureaucratic procedures for obtaining exit visas restricts their freedom of movement. At the same time, they **are subjected to ongoing intimidation and harassment**. Independent international human rights experts are as previously denied entry to the country.

When examining the situation in Uzbekistan in July 2015, the **UN Human Rights Committee criticized** "unreasonable, burdensome and **restrictive requirements** for registration", "other obstacles to the work of human rights NGOs", and "arbitrary restrictions on the right to peaceful assembly". It also expressed concern about "consistent reports of harassment, surveillance, arbitrary arrests and detentions, torture and ill-treatment by law enforcement officers and prosecutions on trumped-up charges of independent journalists, government critics and dissidents, human rights defenders and other activists, in retaliation to their work."¹³

Numerous **human rights activists, independent journalists and dissidents remain in prison on politically motivated charges**. There are serious concerns about their health and well-being due to notoriously bad prison conditions and widespread torture and ill-treatment. The practice of **arbitrarily extending the sentences of "inconvenient" prisoners** whose sentences are expiring is highly troubling.¹⁴ Such prisoners are typically charged with disobeying the orders of prison authorities (Criminal Code article 221) and given new sentences in closed trials. As the timing of the trials is announced only shortly beforehand, defence lawyers are often not able to attend. The relatives of prisoners are also often not informed about the trials.

In a recent example, human rights defender Azam Farmonov, who was due to be released in April 2015 after serving out a 9-year prison sentence, was given an additional five years under Criminal Code article 221. In another, **egregious example**, former MP Murad Dzhurayev **has had his original prison sentence extended four times** and has spent 21 years in prison, 12 of which were not part of his original sentence.

The Supreme Court recently upheld his latest sentence.

Recommendations

The authorities of Kazakhstan should:

- Take concrete and effective measures to implement the recommendations made by the UN Special Rapporteur on freedom of peaceful assembly and of association in the outcome report on his mission to Kazakhstan in January 2015.
- Bring existing legislation and practice on freedom of association and assembly into line with Kazakhstan's international human rights obligations; ensure that any new legislation that is adopted fully complies with these requirements; and consult and cooperate closely with civil society on reforming and improving relevant law and practice.
- Ensure that no one is arrested, charged or convicted for exercising their rights to freedom of expression, association and assembly; and immediately and unconditionally release all those who are held on such grounds. As long as Vladimir Kozlov, Aron Atabek and Vadim Kurasmhin remain in prison, protect their safety and well-being and ensure that they are not penalized for alleged violations of prison rules as a form of retaliation.
- Safeguard the right to freedom of association of trade unions and political parties and ensure that such organizations are not denied registration or closed down in violation of international human rights standards.

The authorities of Kyrgyzstan should:

- Reject the draft law on "foreign agents" due to its inconsistency with Kyrgyzstan's national and international human rights obligations.
- Refrain from using rhetoric that stigmatizes and discredits NGOs and their representatives; acknowledge the importance of their work; and ensure that they can carry out their work without hindrance and fear, irrespective of their sources of funding or the issues they address.
- Uphold the right of lawyers to integrity and confidentiality of their work and ensure that all court decisions relating to the March 2015 searches of the office of Bir Duino and the homes of its lawyers are effectively implemented.
- Carry out a new, full, independent and impartial investigation into the case of human rights defender Azimjan Askarov, including his allegations of torture and other human rights violations, and release him pending such an investigation due to the failure to protect his rights and grant him a fair trial upon his arrest in 2010.

The authorities of Tajikistan should:

- Ensure that the new legislation on NGO funding is not implemented so as to impede the access to funding of NGOs; and revise this legislation in accordance with the recommendations of civil

society and international human rights experts to ensure that it safeguards the right to freedom of association.

- Refrain from undue interference into the work of NGOs and ensure that NGOs can operate freely and are not sanctioned or closed down on arbitrary grounds, in violation of Tajikistan's obligations under international human rights law.
- Bring the provisions of the Law on Assemblies into compliance with international human rights standards and promote an enabling environment in practice for the exercise of the right to freedom of assembly.
- Revise the Law on the Bar and the Practice of Law in accordance with the recommendations of national and international experts and refrain from adopting any further provisions undermining the independence of the legal profession. Ensure that no lawyer is arrested, charged or imprisoned in retaliation for his or her work.
- Ensure that political opposition parties can carry out their activities without hindrance.

The authorities of Turkmenistan should:

- Request international experts to review the Law on Public Associations and the Law on Assemblies in the light of Turkmenistan's international human rights obligations and amend these laws in full accordance with the recommendations received.
- Ensure that NGOs and political parties that are independent from state structures may obtain legal status in a fair and transparent process and carry out their activities without undue interference.
- Allow peaceful, spontaneous protests to take place without repercussions for the organizers and participants.
- Put an end to intimidation and harassment of independent journalists, civil society activists and others who dare to criticize government policies.
- Immediately release all individuals who have been detained on politically motivated grounds; and disclose the fate of those who have disappeared in prison.

The authorities of Uzbekistan should:

- Take concrete and effective measures to implement the recommendations made by the UN Human Rights Committee with respect to safeguarding freedom of expression, association and assembly.
- Enable independent human rights NGOs to obtain legal status and carry out their work without hindrance; allow peaceful assemblies to take place without undue interference; and stop intimidating and harassing human rights defenders, journalists and dissidents.
- Release all those who have been imprisoned in retaliation for their peaceful exercise of freedom of expression, association and assembly; and put an end to the practice of arbitrarily prolonging the expiring sentences of "inconvenient" individuals because of alleged violations of prison rules.

- Ensure the safety and well-being of those in prison and thoroughly and impartially investigate all allegations of torture and ill-treatment of prisoners and bring those responsible to justice.

¹ Secretary-General's remarks to the International University for Humanities and Development, Ashgabat, Turkmenistan, 13 June 2015, <http://www.un.org/sg/statements/index.asp?nid=8723>

² Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the Republic of Kazakhstan, 27 January 2015, <http://freeassembly.net/rapporteurpressnews/statement-kazakhstan/>

³ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai on mission to Kazakhstan, June 2015, available at <http://freeassembly.net/rapporteurreports/kazakhstan/>

⁴ See also statement by members of the Civic Solidarity Platform, "Kyrgyzstan: Reject 'Foreign Agents' Bill in Plenary", 26 May 2015, <http://www.iphronline.org/kyrgyzstan-reject-foreign-agents-bill-in-plenary-20150526.html>

⁵ "Алмазбек Атамбаев: В Кыргызстане есть иностранные агенты, и об этом надо открыто говорить", 27 July 2015, at <http://www.24kg.org/politika/16825/>

⁶ See Bir Duino press release, "Тройная победа", 25 June 2015, <http://birduino.kg/blog/2015/06/25/press-reliz-25-iyunya-2015g-trojnaya-pobeda/>

⁷ See appeal signed by 92 organizations in November 2014, "Tajikistan: Drop draft legislation restricting access to NGO funding", <http://www.iphronline.org/tajikistan-ngo-law-appeal-20141125.html>

⁸ See, for example, statement by Spokesperson for the UN High Commissioner for Human Rights, 3 August 2015, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16288&LangID=E#sthash.6yzVLTAs.dpuf

⁹ Official statement by the General Prosecutor of Tajikistan published by the state Khovar news agency on 17 September 2015, at <http://www.khovar.tj/>

¹⁰ Human Rights Center Memorial, "Власти Туркменистана разрешили выезд в Россию опального конезаводчика Гельды Кяризова", 15 September 2015, <http://www.memo.ru/d/245620.html>

¹¹ Ministry of Justice press release, October 2014, <http://m.minjust.uz/ru/press/news/2014/10/6343/>

¹² Regulations concerning the procedure for agreeing events of non-governmental organizations (No 2679), approved by the Ministry of Justice, 4 June 2015.

¹³ Human Rights Committee Concluding Observations on the fourth periodic report of Uzbekistan, July 2015, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUZB%2fCO%2f4&Lang=en

¹⁴ For more on this topic, see also Alternative report submitted by the Association for Human Rights in Central Asia (AHRCA) and International Partnership for Human Rights (IPHR) to the Human Rights Committee review of Uzbekistan in July 2015: <http://www.iphronline.org/uzbekistan-alternative-report-to-un-human-rights-committee-20150706.html>