



CURTAILING RIGHTS IN THE NAME OF STABILITY

Current trends in Kazakhstan, Tajikistan and Turkmenistan

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This briefing paper provides an overview of current major concerns regarding freedom of expression and the media; freedom of association and assembly; as well as access to justice, non-discrimination and the protection of vulnerable groups in Kazakhstan, Tajikistan and Turkmenistan. It is based on the findings of monitoring conducted by Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR), Nota Bene (Tajikistan) and Turkmen Initiative for Human Rights (TIHR, based in exile in Austria) in their respective countries in April 2014 to April 2015. International Partnership for Human Rights (IPHR, Belgium) has conducted additional research and compiled the paper. The briefing paper has been prepared within the framework of the joint project “A Transnational Civil Society Coalition in Support of Fundamental Rights in Central Asia”, which is implemented by the four organizations.

Contents

- Kazakhstan** 2
 - Brief overview of the general situation..... 2
 - Freedom of expression and the media..... 2
 - Freedom of association and assembly 4
 - Access to justice, non-discrimination and the protection of vulnerable groups 6
 - Recommendations 7
- Tajikistan** 8
 - Brief overview of the general situation..... 8
 - Freedom of expression and the media..... 9
 - Freedom of association and assembly 10
 - Access to justice, non-discrimination and the protection of vulnerable groups 12
 - Recommendations 14
- Turkmenistan** 15
 - Brief overview of the general situation..... 15
 - Freedom of expression and the media..... 15
 - Freedom of association and assembly 16
 - Access to justice, non-discrimination and the protection of vulnerable groups 18
 - Recommendations 20

Kazakhstan

Brief overview of the general situation

Kazakhstan's President Nursultan Nazarbayev was re-elected with a landslide victory in early presidential elections held on 26 April 2015, in which he had no genuine competitors. The other two candidates who formally challenged him openly praised his achievements. Nazarbayev has been in power throughout the country's independence and fully dominates political life. Aside from his Nur Otan party, only two other pro-presidential parties are currently represented in the parliament.

While the Kazakhstani government recently has been seeking to build its international image as a progressive country in terms of democracy and human rights, the human rights situation in the country remains highly problematic.

The December 2011 events in Zhanaozen, which have yet to be thoroughly and impartially investigated, were followed by a widening crackdown on opposition and dissent. This has resulted in that there is currently little space for expressing alternative views and openly discussing major issues of public concern in the country.

Recent developments in the wider region of the former Soviet Union, in particular in Ukraine, as well as the current economic downturn appear to have further reinforced fears of criticism and protests on the part of the authorities, triggering new repressive measures.

There are also concerns that Kazakhstan's membership in the Eurasian Economic Union (EEU) has resulted in that Russian legislation and practice are increasingly used as an example in areas other than economic regulation, e.g. with respect to initiatives affecting civil society. The EEU began operating in January 2015.

The administration of justice is characterized by serious shortcomings in Kazakhstan, and especially government critics and members of other vulnerable groups face difficulties in obtaining justice. Because of this, a growing number of complaints has been submitted to international human rights bodies.

Freedom of expression and the media

Attacks on media pluralism

Media pluralism took a serious blow in late 2012 when a number of outspoken media outlets were banned by court for alleged "extremist" propaganda in their coverage related to the 2011 Zhanaozen events. After this, pressure on remaining opposition and independent media has continued and **several newspapers have been suspended or closed down** by court on questionable grounds, including *Pravdivaya Gazeta*, the *Assandi Times* and *ADAM bol* in the past year.

In February 2015, the Almaty City Court upheld the December 2014 decision to close down *ADAM bol* over an article deemed to constitute war propaganda because it featured an interview with a Kiev-based Kazakhstani opposition figure who called for supporting the Ukrainian authorities in their struggle against separatist forces.¹ Already in November 2014, the publication of the magazine was halted by a lower-level court. The OSCE Media Freedom Representative criticized the measures against *ADAM bol* as "drastic and disproportionate" and said that they "endanger pluralism" and "contribute to an atmosphere of fear for members of the media."²

Harassment of journalists and outspoken individuals

The new Criminal Code that entered into force in January 2015 retains **criminal sanctions for defamation**, with special protection afforded to government officials, as well as for **vaguely worded offenses of “inciting” social, national or other “discord” and “spreading false information”**. These provisions pose a threat to freedom of expression, which also protects speech that may be viewed as provocative or offensive by some. In several recent cases of concern, journalists and other individuals have been charged on these grounds.

Civic activist Musagali Duambekov was sentenced to one year of restricted freedom on defamation charges in May 2014 over a series of investigative articles, and journalist Natalia Sadykova was ordered arrested in absentia on such charges in March 2014 after a former MP accused her of defaming him. Prior to the April presidential elections, the General Prosecutor’s Office issued warnings to two individuals for posting allegedly insulting Facebook comments about President Nazarbayev and another candidate.³ In March 2015, an ethnic Russian Almaty resident was given a four-year suspended prison sentence for “inciting national discord” because of social media comments that derogatorily referred to ethnic Kazakhs and suggested that North Kazakhstan may end up as part of Russia. On the same grounds, an ethnic Kazakh Astana resident was sentenced to two years of restricted freedom for Facebook comments on ethnic Russians. An investigation on “spreading false information” was initiated earlier this year against journalist Maria Kovaleva over an article about the Ukraine conflict, but was eventually closed.⁴

Media outlets and journalists are also targeted by **punitive civil defamation lawsuits**, which are brought by public figures who demand excessive sums in compensation for alleged damages to their reputation. For example, in November 2014, the owners of *ADAM bol* were ordered to pay 5 million Tenge (around 25 000 EUR) over an article about the Syrian conflict found to have defamed the representative of a mosque.

Cases of **threats, attacks, and attempts to obstruct the professional activities of journalists** continue to be reported, as documented by the Adil Soz Foundation for the Protection of Freedom of Speech.⁵ In most cases, such incidents are not thoroughly investigated and those responsible not punished, thus resulting in widespread impunity.

Internet censorship

Blocking of websites that feature information that does not please the authorities, such as news sites, opposition sites and social media sites **remains a pattern**. In some cases, whole websites have been temporarily blocked, and in other cases, access to certain content on individual sites has been limited. For example, in February 2015, articles about an apparently ethnically motivated clash in southern Kazakhstan published by Eurasianet.org, Radio Free Europe/Radio Liberty and Today.kz became unavailable to Kazakhstani user.⁶ Last year access was blocked to the Russia-based Fergananeews.com site after it covered an inter-ethnic incident in the same part of the country. This site remained inaccessible at the time of writing.

Amendments to the Communications Law adopted last year **grant the general prosecutor’s office broad powers to block access to internet resources** without a court ruling, e.g. if online information contains calls for “extremist” activities, “riots” or unauthorized protests, or contravenes the country’s Election Law. Providers are required to comply with such orders within hours. With reference to these provisions, the deputy head of the Central Election Commission warned ahead of the April presidential elections that social networking sites may be blocked if rules on campaigning silence are violated.

Draft legislation on “protecting children from information harmful to their health and development”, which has been passed by the parliament but was yet to be signed by the president in late April 2015, introduces a new requirement for “online outlets” to register with the authorities without providing a

clear definition of this term. Civil society organizations fear that this requirement will be used to **extend control over internet resources**.

Freedom of association and assembly

Restrictive legislation and practices on freedom of association and assembly

The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, visited Kazakhstan in January 2015. He concluded that “a web of laws and practices” limits freedom of association in the country and that the government’s approach to regulating assemblies “deprives the right of its meaning”.⁷ A detailed report on his findings will be made public in the summer.

By law it is compulsory for public associations to register with the authorities, and the **new Criminal Code** that entered into force in January 2015 criminalizes the involvement in unregistered public associations. The new Criminal Code also contains other **provisions that threaten freedom of association**, including provisions that set out penalties for members of public associations for “unlawful interference” in the activities of state agencies and characterize “leaders” of public associations as a separate category of offenders. The **new Administrative Code** retains provisions that allow courts to suspend and terminate the activities of public associations for any violation of national law, no matter how minor.

The **new Law on Trade Unions**, which entered into force in July 2014, has been criticized for facilitating de-facto monopolization of the trade union space and undermining independent trade union activity by requiring unions to be part of industry- and nation-wide structures.

There are concerns that **new legislation restricting access to funding of NGOs may be adopted** in Kazakhstan, similarly to in other former Soviet Union countries. Draft legislation on state grant-making to NGOs under consideration by the government could result in that a government-controlled body is entrusted with overseeing grant-making to NGOs not only of state funds, but also of funds from other sources. According to the proposed provisions, NGOs may receive grants for certain listed areas of activities and the use of grants will be closely monitored.

Civil society members have expressed fears that the vaguely worded draft legislation on grant-making could be used to impede the funding and work of NGOs that are inconvenient to the authorities.⁸ In response to the criticism voiced by civil society, as well as representatives of the international community, some amendments have reportedly been made to the draft legislation. At the time of writing, the exact nature of these remained unclear. The draft legislation is expected to be submitted to the parliament in June 2015.

At the Universal Periodic Review of Kazakhstan last October, the government delegation acknowledged the need to improve current legislation on freedom of assembly.⁹ The same month the UN Human Rights Committee instructed the authorities of the country to revise this legislation.¹⁰ However, so far, no measures are known to have been taken to this end.

While **current legislation requires the organizers of assemblies to obtain permission in advance**, permission is often denied on different pretexts or protests only allowed in venues that have been specifically designated for this purpose. Such venues are typically remotely located, contrary to the principle that assemblies should be facilitated within the “sight and sound” of their target audience. Public events initiated by government bodies or pro-government organizations are, however, allowed to take place in city centres. In February 2015, a court in Pavlodar upheld a decision to deny a request by civil society activists to hold an assembly in the centre of this city, specifically arguing that only official events are allowed there.

Because of the repressive approach of authorities, most peaceful protests held in Kazakhstan are unauthorized. While some unauthorized protests are allowed to go ahead, others are **dispersed by police and organizers and participants detained and brought to justice**, resulting in warnings, fines and arrests. The new Administrative Code provides for up to 15 days of arrest, and the new Criminal Code for up to 75 days of arrest for violations of the rules on holding assemblies. Trials in these cases are frequently marred by fair trial and due process violations. In the recent period, numerous participants in peaceful protests concerning socio-economic issues, such as the de-evaluation of the national currency last year, problems facing mortgage-holders, and evictions have been detained. Children have sometimes been apprehended along with their parents when participating in protests, and journalists have repeatedly been detained when covering unauthorized assemblies.

Authorities also continue to use the tactics of **“preventive” detentions** of civil society activists and other outspoken individuals ahead of planned protests, as happened even during the visit of UN Special Rapporteur Maina Kiai in January 2015. During his visit, *ADAM bol* Chief Editor Gulshan Yergaliyeva and several other individuals were detained when on their way to a peaceful protest in support of this magazine at the Republic Square in Almaty.

Persecution of civil society activists and opponents of the regime

A number of individuals known for their criticism of authorities are currently imprisoned on charges believed to be politically motivated after being convicted in unfair trials. These include opposition *Alga!* party leader Vladimir Kozlov, human rights defender Vadim Kuramshin, poet and dissident Aron Atabek and lawyer Yevgeniy Tankov. Kozlov is serving a 7.5 year sentence for his alleged role in the Zhanaozen events, Kuramshin a 12-year sentence on extortion charges believed to be retaliation for his human rights work, Atabek an 18-year sentence for allegedly organizing riots, and Tankov a three-year sentence for threatening a judge considered unfair and disproportionate.

Lawyer Zinaida Mukhortova was released from the psychiatric hospital where she had been forcibly held in November 2014, but was required to continue to show up for regular checks at hospital. Although anti-corruption activist Alexander Kharlamov was released from detention in September 2013, the criminal case opened against him on absurd charges of “inciting religious discord” has still not been closed.¹¹ Strike movement leaders Roza Tuletaeva and Maksat Dosmagambetov, who were imprisoned in a flawed trial after the Zhanaozen events (see more in the next section on “access to justice”), were granted early conditional release in November 2014 and February 2015, respectively. However, their allegations of being subjected to torture in pre-trial detention have yet to be investigated.

The **unregistered *Alga!* party**, the country’s most vocal opposition party, **was declared “extremist”** in the aftermath of the Zhanaozen events. Another opposition party, **the Communist Party was suspended by court for three months** in December 2014 for allegedly failing to meet the threshold for the minimum number of members required by law. The party viewed this as a new attempt to silence it. Its activities have previously been suspended several times.

The Kazakhstani authorities continue to seek the **extradition of opposition figures** who have fled to Europe. Human rights NGOs have expressed serious concern that these individuals are at the risk of unfair trials and torture and ill-treatment if extradited. In April 2015, France’s Cassation Court annulled a lower court decision to extradite well-known opponent Mukhtar Ablyazov to Russia or Ukraine, where he is also wanted, and ordered a new hearing.¹² The same month the Spanish authorities declined a request from the Kazakhstani government to extradite Muratbek Ketebaev, a former Ablyazov associate who was arrested in Madrid in December 2014 and held for several weeks.¹³

Access to justice, non-discrimination and the protection of vulnerable groups

Problems concerning access to justice

When considering the situation in Kazakhstan in November 2014, the UN Committee against Torture raised concerns about **problems in the administration of justice**. The Committee expressed particular concern about the lack of balance between the participants in judicial proceedings and the dominant role of the procurator. It called on the Kazakhstani authorities to “undertake structural reform (...) with a view to balancing in practice and ensuring equality of arms between the respective roles of the procurator and the defence counsel in judicial proceedings and ensuring the independence of the judiciary.” It also called for measures to ensure that defence lawyers are allowed to collect and present evidence, call witnesses and have unimpeded access to all evidence in the hands of the prosecution.

KIBHR monitors have repeatedly documented **violations of the right to equality of arms, the right to defence and other fair trial rights** during legal processes, in particular processes involving individuals who are critical of authorities or who have been subjected to arbitrary and unlawful treatment by authorities. These systematic problems have also been reflected in **petitions submitted to UN human rights bodies**, where dozens of complaints from Kazakhstani residents currently are pending. Many of these petitions have been submitted with the assistance of the KIBHR.

Decisions already issued by UN human rights bodies have been welcomed as **precedent-setting** in terms of promoting access to justice. For example, last October, the UN Human Rights Committee for the first time considered a complaint concerning the exercise of freedom of assembly in Kazakhstan and found numerous violations. It ordered the Kazakhstani authorities to provide an effective remedy to the victim and to revise existing legislation to prevent similar violations in future.¹⁴

Amendments to the Civil Procedure Code adopted in November 2014, which **require those who represent the interests of individuals in court to have a law degree**, have created obstacles for human rights defenders without such a degree to take on the role of defender. While a provision of the Code that concerns representatives of organizations with a mandate to protect the interest of members was left unchanged, some courts have interpreted the new provision as also applying to such defenders.¹⁵

International bodies have repeatedly called for an **independent, international inquiry into the December 2011 events in Zhanaozen**, as well as for effective investigations into the torture allegations made by individuals who were detained in the aftermath of these events. Such calls were made by the UN Committee against Torture when examining the situation in Kazakhstan in November 2014 and by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association when visiting the country in January 2015. During the Zhanaozen events, more than a dozen people were killed and many more wounded as police used arms to put down riots that broke out following a several months-long peaceful oil worker strike. Following an unfair trial¹⁶, a total of 13 individuals were imprisoned on charges of involvement in these events. In March 2015, the last two individuals imprisoned on such charges were granted early, conditional release.

Inadequate protection of vulnerable groups and LGBTI intolerance

The outcome report from the second **Universal Periodic Review (UPR) of Kazakhstan** held in October 2014 was adopted by the UN Human Rights Council in March 2015.¹⁷ During the UPR, UN member states raised a wide range of human rights concerns and made **close to 200 recommendations to Kazakhstan for how to improve its human rights record**. Among these were many recommendations to step up efforts against discrimination and to **enhance the protection of vulnerable groups** such as journalists, civil society activists, women, children, religious minorities, migrants, disabled people, detainees and

torture victims. The Kazakhstani government claimed that 48 of these recommendations “have already been implemented” and that 96 are “in the process of being implemented,” while it did not support the remaining 50 recommendations, many of which address key fundamental rights issues. KIBHR and other Kazakhstani NGOs were actively involved in the process leading up to the UPR and submitted several joint written contributions for it.¹⁸

As in other countries of the region, **LGBTI members are subject to widespread intolerance and discrimination** in Kazakhstan. In a development reflecting such negative attitudes, the Almaty mayor’s office took an advertising agency to court over a poster showing Russian writer Alexander Pushkin and Kazakh composer Kurmangazy Sagyrbayuly kissing last year, arguing that it constituted “unethical advertising“. The agency and its director were fined and were also separately convicted of defamation over the same poster and ordered to pay moral damages to an amount of about 150 000 EUR. The publication of the poster on social media was followed by a public outlash and activists from the youth movement *Bolashak* called for the adoption of anti-LGBTI legislation.

Moreover, **draft legislation** on protecting children from “harmful information” that has been passed by the parliament but was yet to be signed by the president in late April 2015 **risks banning public expression related to so-called non-traditional sexual relations** in Kazakhstan. The draft legislation has been argued to be aimed at banning the dissemination of information on such relations, along with information on violence, cruelty, pornography and the like, and wording included in the bill could be used to obstruct awareness-raising, advocacy and open debate on LGBTI issues. At the same time, it is likely to reinforce intolerance and discrimination against LGBTI communities.¹⁹

Recommendations

Freedom of expression and the media

The authorities of Kazakhstan should:

- Put an end to the trend of closing down independent and opposition media outlets, and ensure prompt, through and impartial investigations into any threats and attacks targeting journalists with a view to bringing the perpetrators to justice.
- Decriminalize defamation, revoke the Criminal Code provisions on “inciting“ social, national and other discord and on “intentionally spreading false information”, and ensure that no one is criminally charged or convicted in retaliation for their legitimate exercise of freedom of expression.
- Establish upper limits for the amounts of moral damage that can be awarded in any defamation lawsuits.
- Stop blocking websites simply because they contain information that is critical of authorities or inconvenient to them, and revise existing legislation to ensure that any measure to limit access to online resources must be sanctioned by court in accordance with due process standards and be strictly necessary and limited to specific content.
- Abolish the proposed registration requirement for “online outlets” and refrain from adopting any legislation that imposes undue restrictions on internet freedoms.

Freedom of association and assembly

The authorities of Kazakhstan should:

- Cooperate fully with the UN Special Rapporteur on freedom of peaceful assembly and association in follow-up to his visit to Kazakhstan and take concrete and effective measures to implement the recommendations resulting from his visit.
- Amend provisions of the new Criminal and Administrative Codes, as well as other legislation in force that impose restrictions on freedom of association and assembly that are incompatible with Kazakhstan's international human rights obligations.
- Elaborate a new Law on Assemblies in close cooperation with civil society to ensure a legal framework that serves to uphold this right and implement corresponding measures to change current practice. In particular, put in place a simple notification procedure for holding assemblies, refrain from restricting the holding of assemblies to remote locations and allow peaceful protests to take place without undue interference by authorities.
- Ensure that no draft legislation that unduly restricts access to funding of NGOs is adopted and consult with organizations from across the whole spectrum of civil society on any legislative initiatives affecting the operation of NGOs.
- Stop repressing political opposition political parties and allow them to operate freely.
- Put an end to politically motivated prosecution of human rights defenders, lawyers and others who criticize authorities and immediately and unconditionally release all those who are held on such grounds.

Access to justice, non-discrimination and the protection of vulnerable groups

The authorities of Kazakhstan should:

- Take effective measures to put into practice the recommendations made by UN treaty bodies, as well as UN member states in the context of the UPR with respect to ensuring a fair justice process and strengthening the protection of vulnerable groups.
- Implement, in good faith the decisions issued by UN human rights bodies in response to individual petitions submitted from Kazakhstan.
- As called for by international human rights bodies, allow for an international, independent inquiry into the Zhanaozen events and thoroughly and impartially investigate the allegations of torture made by those who were detained in connection with these events.
- Publicly condemn intolerance and discrimination of LGBTI members and step up efforts to counteract such practices.
- Refrain from adopting any legislation that reinforces negative attitudes toward LGBTI members and can be used to restrict open debate on issues concerning LGBTI rights and sexual and gender identity.

Tajikistan

Brief overview of the general situation

In the parliamentary elections held in Tajikistan on 1 March 2015, the ruling People's Democratic Party of Tajikistan and three smaller parties (the Agrarian Party, the Party of Economic Reforms and the Socialist Party) secured all seats. Two opposition parties that previously had been represented in the law-making body, the Islamic Renaissance Party of Tajikistan (IRPT) and the Communist Party fell out.

Observers from the OSCE and the European Parliament deemed the March parliamentary elections unfree and unfair, saying they took place in a "restricted political space", where the election campaign was controlled by the ruling party, opposition parties were harassed and obstructed, and voters were subjected to pressure. The observers also reported serious procedural violations on election day.²⁰ Observers from the CIS and the CIS Inter-Parliamentary Assembly, however, assessed the elections as "free and democratic".²¹

The large community of Tajikistani labour migrants residing in Russia, among whom the IRPT is popular, had limited opportunities to vote since only three polling stations were opened in this country under recent amendments to the Election Law.²²

In the recent period, pressure on the political opposition has increased in Tajikistan, and criticism of the authorities has increasingly been depicted as a threat to the stability of society. Media, civil society and lawyers operate in a worsening climate, and the pattern of arbitrary blocking of websites continues.

As highlighted during the recent UN review of the country's record on economic and social rights²³, serious gaps remain in the protection of vulnerable groups, such as women, children, and migrants and their families left behind.

In preparation of the second UN Universal Periodic Review of Tajikistan, which will take place in April 2016, a government working group has been set up to prepare the national report and consultations are being held on the implementation of recommendations previously received by the country.

Freedom of expression and the media

Intimidation and harassment of media and journalists

Concerns about intimidation and harassment of media and journalists in Tajikistan were reinforced in connection with the parliamentary elections held on 1 March 2015.

In a joint statement issued ahead of the elections, the National Association of Independent Mass Media in Tajikistan (NANSMIT), the Journalists' Union and the Media Council of Tajikistan deplored threats and attacks against independent journalists and called for adequate measures to prevent and investigate such incidents. They noted, in particular, that **campaigns aimed at discrediting journalists** have been carried out in media and social media, such as by disclosing information about the private lives of journalists, which suggests that the authors have had access to information obtained unlawfully.²⁴

NANSMIT also documented a number of cases when journalists were **prevented from carrying out their work** when covering the March parliamentary elections, such as by being denied access to polling stations on election day.²⁵

There are reports indicating that media increasingly **engage in self-censorship** out of fear of repercussions, in particular in a situation when many outlets are struggling financially due to the economic downturn.²⁶ In a case that observers interpreted as an example of outright censorship, the weekly *Nigoh* was subjected to a temporary printing ban in December 2014 for allegedly failing to re-register and renew its license.²⁷

While libel was de-criminalized in 2012, **insulting the president and government officials is still subject to criminal liability**, which has a chilling impact on freedom of expression. **Civil defamation and other lawsuits** also continue to be used as a form of retaliation against media and journalists.

In a high-profile case last year, the well-known independent Asia Plus newspaper and its editors Olga Tutubalina were convicted of defaming the country's "intelligentsia" and ordered to pay 30 000 somoni (some 4500 EUR) in moral damages. The lawsuit in this case concerned an article that criticized a former

government opponent for flattering and praising Tajikistan's president after returning to the country and quoted a famous statement by Lenin: "The intelligentsia is not the brain of the nation, but its faeces."²⁸ The lawsuit was submitted with the support of five state-funded bodies. The decision, which was upheld on appeal, was widely criticized as stifling free speech.

In another case that set a worrisome precedent, Tajikistani blogger and researcher Alexander Sodiqov was detained on spying accusations in June 2014. This happened when he was conducting field research on conflict resolution in the city of Khorog in the aftermath of clashes between police and residents taking place there (see more under "freedom of association and assembly"). According to the State Committee on National Security, he had been detained "while implementing a task for the security services of a foreign country".²⁹ As a result of widespread international criticism, he was eventually released in July and allowed to return to his home in Canada in September.

Blocking of websites

Arbitrary blocking of websites has become a regular occurrence in Tajikistan in the last few years. Such measures have targeted news sites, social media sites such as Facebook, Twitter, YouTube and *Vkontakte* and other online resources.

The most extensive blocking to date took place in October 2014, when hundreds of websites suddenly were blocked after online calls were made for an anti-government rally to be held in the capital Dushanbe. (See more on this issue in the section on "freedom of association and assembly" below). Some of these websites still remain unavailable. The government's Communications Service has denied responsibility for the blocking of websites, typically blaming it on "technical problems". However, internet providers have indicated that they have received **informal orders to block sites**.

Mobile phone services have also repeatedly stopped functioning in connection with specific political events, without adequate explanation. For example, on the eve of the March 2015 parliamentary elections, text messaging services temporarily stopped working for the customers of all but one mobile phone provider in the country.³⁰ Similarly, text messaging services were disabled prior to the planned anti-government rally in October.

The pattern of repeated blocking of websites has been criticized by both civil society and the international community.³¹ The OSCE Representative on the Freedom of the Media has described it as "a worrying and disturbing trend" and reminded the authorities that they "have a responsibility to ensure that all citizens of Tajikistan have unhindered access to information, offline and online".³²

Freedom of association and assembly

Growing insecurity for NGOs

Tajikistan's civil society is operating in conditions of growing insecurity. In the recent period, numerous NGOs have been singled out for **unscheduled, intrusive inspections** and several NGOs have been **closed down or threatened with closure** because of the alleged failure to comply with requirements of a technical nature. Last summer the Constitutional Court considered a complaint filed by the anti-torture NGO Amparo regarding its liquidation in 2012 on such grounds. The Court ruled that the current provisions of the Law on Public Associations that concern the closure of NGOs are not sufficiently clear and should be amended. However, up to now, no such amendments have been proposed.

Instead, the Ministry of Justice has elaborated other **problematic draft provisions concerning the funding of NGOs**. Proposed amendments to the Law on Public Associations that became known last November require NGOs to register all funds received from foreign and international sources with the

government prior to using them, without specifying any minimum amount that this requirement applies to or elaborating on the registration procedure. Due to ambiguous wording, it is not clear whether funds from local donors also would have to be registered. The government has argued that the amendments are needed to meet recommendations of the Financial Action Task Force on Money Laundering, similarly to in other countries where problematic NGO legislation has been initiated.

The proposed amendments were **seriously criticized by civil society**, which objected to the lack of transparency surrounding the elaboration of the draft legislation and expressed alarm that it would introduce undue and discriminatory restrictions on access to NGO funding in violation of international standards.³³ The UN Committee on Economic, Social and Cultural Rights has also expressed concern about the draft legislation, saying it “could have an adverse impact on the activities of civil society organizations”.³⁴

After voicing criticism, NGOs were invited to discuss and make recommendations on the draft legislation, and the minister of justice assured that the registration requirement would not entail requesting permission to use grants. However, the draft amendments submitted to the parliament in late March 2015 remained vaguely worded, although they had been amended to say that NGO programs using funds subject to registration “is only allowed after *notifying* the registration body”. On 28 April 2015, parliamentary deputies held a meeting with government representatives and NGO leaders regarding the proposed amendments. The deputies said they would take into account all arguments presented when considering the draft legislation.

Restrictions on freedom of assembly

A new **Law on Assemblies** adopted in Tajikistan in late 2014 is **more restrictive than the previous one** and limits the right to hold peaceful assemblies in ways that are not compatible with international 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 and bans foreign citizens from participating in gatherings.

The adoption of the new Law on Assemblies, which has been argued to be needed in view of current security threats, came at a time when authorities appear to be **increasingly concerned about possible mass protests**.

In October 2014, online calls for holding an anti-government rally in Dushanbe were followed by unprecedented security measures, widespread blocking of websites (see more in the section on “freedom of media and expression”) and a court decision banning the opposition “Group 24” behind the calls as “extremist”. The planned event did not take place in the end. In March 2015, the exiled leader of “Group 24” was killed in Istanbul under unclear circumstances. An investigation is under way by Turkish authorities.

In May 2014, three people were killed and several injured during clashes between police and local residents that broke out in connection with a law enforcement operation in the city of Khorog in the Gorno-Badakhshan Autonomous Oblast (GBAO). An investigation into these events was initiated, but no results have been made public up to now. Following the Khorog events, public officials accused foreign states of seeking to “destabilize” the situation in the country³⁵, and Tajikistani blogger and researcher Alexander Sodiqov was detained on spying accusations (see more in the section on “freedom of expression and the media”).

Controversial messages by religious leaders

A **controversial fatwa** adopted by Tajikistan's *Ulemas* Council in September 2014 declared "agitation" against the authorities, as well as cooperation with international and national organizations, political parties and media that seek to "destabilize" Tajik society as sinful.

Imams at state-controlled mosques have also repeatedly delivered **sermons carrying messages directed against the political opposition**. For example, imams were heard calling on believers to vote for the ruling party in the parliamentary elections on 1 March 2015, and later to suggest that the largest opposition party, IRPT, should be banned.³⁶ The IRPT faced difficulties campaigning for the parliamentary elections and the party and its members were subjected to **smear campaigns in state media and social media**.³⁷ Other political opposition parties and their representatives have also faced growing harassment.

Access to justice, non-discrimination and the protection of vulnerable groups

Concerns related to legal reform

A **new Program on Judicial Reform** in Tajikistan in 2015-2017 was adopted at the beginning of this year. The stated objective of this program is to strengthen the judicial system and the protection of the rights of citizens in the administration of justice, including among others by developing the provision of free legal assistance.³⁸ The program was elaborated with only **limited consultation of civil society** and the country's lawyers' community was not granted the opportunity to actively contribute to the process.

A **new Law on the Bar and the Practice of Law** was adopted by the parliament and signed by the president in March 2015. This law poses a **threat to the independence of the legal profession** as it introduces a new qualification procedure for lawyers that will be administered by a body in which the Ministry of Justice will play a prominent role. Recommendations made by the lawyers' community, civil society and international organizations on this issue were not reflected in the law prior to its adoption.

Persecution of lawyers

In the recent period, there have been **growing concerns about the persecution of lawyers** for their professional activities, as highlighted in a statement by Tajikistani civil society organizations and representatives of the bar issued last summer.³⁹

In January 2015, a Dushanbe court found well-known lawyer Shukhrat Kudratov guilty of bribery and fraud and sentenced him to nine years in prison and barred him from practicing law for two years upon release. The charges against him are believed to have been motivated by his professional activities, including his work on human rights related cases and cases involving public figures, such as that of businessman and opposition figure Zaid Saidov who was imprisoned in December 2013. Following Saidov's conviction, Kudratov continued to speak out on this case, including intimidation faced by him and other members of Saidov's legal team. In addition to his work on politically sensitive cases, Kudratov is a member of the opposition Social Democratic Party. In March 2015, the verdict against Kudratov was upheld on appeal by the Supreme Court, which changed the sentence to five years in prison and a huge fine of 87 000 Somoni (some 13 000 EUR). The ruling in this case has been widely criticized.

Another of Saidov's lawyers, Fahriddin Zokirov was released in November 2014 after spending months in custody on similar charges as Kudratov.

Inadequate protection of socio-economic rights and vulnerable groups

In February 2015, the **UN Committee on Economic, Social and Cultural Rights** examined the implementation of the corresponding UN covenant in Tajikistan. Its findings show that the Tajikistani authorities have **failed to take adequate measures to implement many of the recommendations** made when the situation in the country was first assessed in 2006.⁴⁰

The Committee⁴¹ raised concerns, among others, about the lack of effective remedies for violations of economic, social and cultural rights, the continued absence of a comprehensive anti-discrimination law, and pervasive and systematic corruption in the public sector. It paid particular attention to the rights of women and criticized entrenched gender stereotypes and discrimination, gender segregation and income gaps in the labour market, as well as widespread prevalence and impunity for domestic violence. It deplored the low quality of education due to the lack of qualified teachers and teaching materials, the decrease in instruction in ethnic minority languages, and high dropout rates among girls and children from disadvantaged families. It also expressed concern about insufficient measures to protect the rights of other vulnerable groups, such as labour migrants and their families left behind, disabled people, and asylum seekers and refugees. The concerns raised by the Committee largely reflected those voiced by Tajikistani NGOs in their contributions to the review.⁴²

As many as one million Tajikistani labour migrants have been estimated to be working in Russia, and in 2013 remittances sent home by labour migrants amounted to about half of Tajikistan's GDP, one of the highest rates in the world. However, recently a growing number of labour migrants have been reported to be leaving Russia due to the depreciation of the ruble and the entry into force of new restrictive migration rules. NGOs are concerned that the Tajikistani authorities have **done little to prepare for the possible mass return of migrants** and to promote the re-integration of returnees, including by creating employment opportunities.⁴³

Other issues related to discrimination

In a speech held on the occasion of this year's Mother's Day, which is celebrated on 8 March in Tajikistan, President Rakhmon criticized the wearing of veils and other clothing of black colour by Tajikistani women. He said that this practice is "alien" to national culture and called on state institutions to prevent it.⁴⁴

Shortly after this, reports surfaced about **law enforcement raids on bazaars and stores** deemed to be **selling "inappropriate" clothing**, while programs aired on national TV appeared aimed at discrediting those wearing hijabs by featuring interviews with sex workers dressed in such garment. Media have also reported about cases where **bearded Muslim men have been forcibly shaved**. Civic and religious activists have criticized these measures as violations of the right to privacy, as well as the right to freedom of religion and non-discrimination.⁴⁵ At the same time, representatives of the Ministry of Internal Affairs have stated that no official orders have been given for measures of these kinds and that all complaints submitted by citizens concerning unlawful actions by law enforcement officials will be investigated.⁴⁶

In another development, law enforcement authorities carried out **raids in the name of fighting so-called crimes against morality** in June 2014, detaining hundreds of sex workers and photographing, fingerprinting and forcing them to undergo medical tests for sexually transmitted diseases. The raids and detentions were characterized by due process violations and those targeted reported facing insults, ill-treatment and blackmail attempts. According to official information, some individuals were detained on **suspicion of "homosexual behaviour"**, although homosexuality is not an offense in Tajikistan.⁴⁷ NGOs who came out in defence of the rights of those targeted by the raids, and expressed concern about these measures in light of international human rights standards were denounced in an open letter signed by "intellectuals".

Recommendations

Freedom of expression and the media

The authorities of Tajikistan should:

- Publicly welcome and encourage open debate on issues of public interest; condemn intimidation and harassment of media and journalists; and ensure that any such incident is thoroughly and impartially investigated and those responsible brought to justice.
- Refrain from measures obstructing media and journalists who are covering developments of public interest and facilitate their access to information for this purpose.
- Abolish the remaining criminal provisions on insult and limit the amount of moral damages that can be awarded in defamation lawsuits.
- Put an end to the practice of arbitrary blocking of access to websites and mobile phone services and ensure that residents have unhindered access to information on- and offline.

Freedom of association and assembly

The authorities of Tajikistan should:

- Refrain from adopting the draft amendments on registration of NGO funding now under consideration and respect the right of NGOs to have unimpeded access to funding for their work, including from sources abroad.
- Amend provisions of the Law on Public Associations and related legislation concerning oversight and inspections, as well as suspension and liquidation of NGOs to ensure that they are clear, unambiguous and fully consistent with Tajikistan's international human rights obligations.
- Bring the provisions of the new Law on Assemblies into compliance with international human rights standards and promote conditions in which freedom of peaceful assembly can be freely exercised.
- Consult and involve civil society in any efforts to amend legislation directly affecting it, ensure transparency of lawmaking processes and draw on international expert assistance and international best practices when preparing draft legislation.
- Ensure that political opposition parties can operate without obstruction and take effective measures, in accordance with the recommendations made by independent international observers and human rights bodies to open up political space.

Access to justice, non-discrimination and the protection of vulnerable groups

The authorities of Tajikistan should:

- Revise the Law on the Bar and the Practice of Law in line with the recommendations made by lawyers, civil society and international organizations to ensure that it protects and guarantees the independence of the legal profession.
- Implement effective measures to put an end to threats and harassment of lawyers because of their professional activities and ensure that no lawyer is arrested, charged or imprisoned in retaliation for the cases they work on. Promptly release lawyer Shukhrat Kudratov.
- Take concrete and systematic steps to implement the recommendations made by the CESCR, including by adopting a comprehensive, realistic and result-oriented action plan in close

cooperation with civil society organizations, as well as working with such organizations on the realization of this plan.

- Refrain from exploiting concerns about protecting national stability or values or counteracting “immorality” to implement measures that infringe fundamental rights or undermine the principle of non-discrimination in violation of national and international law.

Turkmenistan

Brief overview of the general situation

All elections held in Turkmenistan, including the 2012 elections where current President Gurbanguly Berdymukhammedov was re-elected with a reported 97% of the vote, have been fundamentally undemocratic and un-free. The OSCE Office for Democratic Institutions and Human Rights has refrained from deploying full-fledged election monitoring missions due to the lack of any competition.⁴⁸

Last year the president initiated a reform process said to be aimed at bringing the Constitution into line with international standards, and recently a number of new, more liberally worded laws concerning the exercise of fundamental rights have been adopted. However, these laws have not translated into corresponding improvements in practice and are unlikely to do so in the absence of wide-ranging reforms to open up space for free expression and political and civic participation.

Currently the human rights situation in the country remains deplorable. As previously, the presidential administration controls all branches of power. There is no functioning political opposition, although two new political parties have emerged as formal competitors to the presidential party, and well-known opponents are either in exile or in prison. Media are strictly controlled by the state, the civil society climate is highly repressive, and all who publicly criticize authorities are at risk of persecution.

A personality cult has increasingly been promoted around President Berdymukhammedov, featuring elements similar to that of notorious late President Saparmurat Niyazov. Among others, he has assumed the title of “The Protector” of the nation, erected statutes and portraits of himself across the country, and mobilized students and other residents for mass events aimed at praising his regime.

Corruption is endemic in the country and citizens continue to be subjected to arbitrary and unlawful measures taken by authorities, with little access to justice or remedy. Women, children, minorities, migrants and other vulnerable groups remain at particular risk of human rights violations.

Freedom of expression and the media

Tight control of media and restrictions on access to information

A **first ever Media Law** entered into force in Turkmenistan in January 2013. This law contains welcome provisions that safeguard freedom of the media and prohibit censorship and unlawful interference in the activities of media. However, these provisions stand in **stark contrast to the current restrictive media environment** in the country.

There are **no independent media**, and state media are **tightly controlled by the authorities** and used as means of ideological propaganda. The authorities interfere with and dictate editorial policies, and chief editors and other top media officials are appointed and dismissed by the president. The import of foreign newspapers is restricted.⁴⁹ Programs broadcast on national TV channels are closely screened and

while foreign channels are accessible via private satellite dishes, arbitrary campaigns by authorities to dismantle satellite dishes has restricted access to this source of information. As reported by TIHR, efforts to remove satellite dishes, as well as air conditioners and other elements argued to spoil the appearance of buildings have been reinforced ahead of the Asian Indoor and Martial Art Games due to take place in Ashgabat in 2017.⁵⁰

The authorities continue efforts to **cover up information** about events that risk showing those in power in a bad light and giving rise to popular discontent, such as accidents, the outbreak of epidemical diseases and similar. To this end, media have been prohibited from reporting on such events and eye witnesses intimidated and photos and video footage confiscated. Such steps were taken, among others, in connection with a deadly traffic accident involving a presidential security car in October 2014.⁵¹

In a long-standing, questionable practice, employees at state institutions are obliged to subscribe to unpopular state-own periodicals in their field of work and to pay for such subscriptions themselves.⁵²

Internet censorship

The **internet** is still available only to some 10% of the population⁵³ and remains **heavily controlled**. **Foreign websites** that publish independent and critical information about developments in Turkmenistan **are blocked** and foreign social media sites are often inaccessible except through proxy servers. Access to downloadable communication applications such as WhatsApp has also been restricted. The costs for private internet access remains prohibitive. The MTS provider, which is the only competitor to the state-run provider, has reported facing obstruction from the authorities in offering more attractive services to customers. It was only able to launch a 3G network in October 2014, four years after the state provider.

A **new law on internet regulation** adopted at the end of 2014 sets out that the government will take measures to **promote internet access**, ensure fair competition in the field of internet services and boost internet infrastructure. However, at the same time, it provides for **undue restrictions on access to online content**. Among others, it prohibits the dissemination of information that is considered slanderous or “rejects family values”. It also states that internet-regulating bodies may cooperate with public associations “whose activities are aimed at detecting illegal information in the internet.” While welcoming that the law lays grounds for better access, the OSCE Representative on Freedom of the Media has expressed concern about its restrictive provisions.⁵⁴

Freedom of association and assembly

New legislation regulating freedom of association and assembly

A new Law on Public Associations was adopted in May 2014, and a first Law on Assemblies was signed by the president earlier this year and will enter into force as of July. While the efforts to develop legislation in these areas are welcome as such, the new laws are weakened by basic restrictions and are not likely to result in any real progress unless systematic measures are taken to promote conditions for civic participation outside of strict government controls.

The **new Law on Public Associations** grants citizens the right to establish and join public associations of their choice and prohibits state interference in the activities of associations. However, **major provisions remain problematic**, such as a requirement of compulsory registration of associations, strict registration rules for national-level organizations, provisions granting authorities wide and largely unfettered powers to oversee the activities and funding of associations and broad grounds for closing down organizations.

The **new Law on Assemblies**, which is long overdue, allows individuals and lawfully registered organizations to carry out pickets, rallies and other public gatherings if local authorities are informed

well in advance and the venue for holding these events is agreed. At the same time, it **grants local authorities wide discretion to refuse to agree to assemblies**. Protests are prohibited near e.g. government buildings, hospitals, schools and public transportation and in other places where so decided and, as a rule, assemblies should be held in venues that will be specifically designated for this purpose. As seen in other countries in the region, such venues are typically in remote and unsuitable locations. Under the law, only one-person pickets can be held without informing authorities.

Repressive civil society environment

In practice, **the civil society environment in Turkmenistan remains highly repressive**. The authorities continue to **promote government-controlled organizations** in place of independent groups and civil society groups addressing human rights and other sensitive issues can only operate underground or in exile. The few local journalists who contribute to foreign media, civil society activists, the family members of exiled dissident voices and others who dare to openly challenge official policies in Turkmenistan remain highly **vulnerable to intimidation and harassment**. (See also the section on “access to justice” for information on unfair and politically motivated trials).

Earlier this year, law enforcement authorities made an apparent attempt to unlawfully confiscate the apartment of ethnic Kazakh community leader Bisengul Begdesenov,⁵⁵ who was pardoned in 2012 after being given a nine-year suspended prison sentence on what was believed to be politically motivated charges in 2011. In December 2014, Radio *Azatlyk* correspondent Soltan Achilova was detained and questioned by police when taking photos of people waiting in line at a food market in Ashgabat.⁵⁶ The same month another journalist who had contributed to foreign media, Gulshen Ashirova, was killed together with her son and cleaning lady under unclear circumstances, but the investigation into this case did not appear to consider a possible link to her professional activities.⁵⁷ In another example illustrating how dangerous any public criticism is, sculptor Klychmurad Yarmamedov was expelled from the state Turkmen Academy of Arts after speaking up about the poor quality of art in the country.⁵⁸

Austria-based TIHR has also repeatedly been subjected to pressure, including cyber attacks and retaliatory measures targeting family members back in Turkmenistan. Last year, TIHR head Farid Tuhkbatullin’s brother Ruslan was prevented from flying from Turkmenistan to Turkey to meet him.

Public assemblies are a rare occurrence in Turkmenistan because of the lack of awareness among citizens of their rights and the overhanging threat of reprisals for any criticism of official policies. Recently, however, TIHR has reported about an **increasing number of incidents where citizens have carried out spontaneous protests** in response to the removal of air conditioners from their apartment buildings, demolitions of their houses and other issues directly affecting their everyday lives. This development appears to have troubled authorities, which view any expression of discontent as a threat. Attempts have also been made by law enforcement officials to track down and warn the instigators of such protests. Against that background, there are reasons to fear that the new Law on Assemblies may be used to deem spontaneous, peaceful gatherings unlawful and to intimidate and harass the initiators and participants.⁵⁹

No genuine political pluralism

A first-ever **Law on Political Parties** adopted in 2012 created a legal basis for a multi-party system. Following this, two more political parties have been established aside the pre-existing presidential Democratic Party of Turkmenistan -- the Party of Industrialists and Entrepreneurs in August 2012 and the Agrarian Party in September 2014. However, the process of creating these new parties has been carried out under the auspices of the presidential administration, and **the new parties do not represent any independent platforms**. The OSCE Office of Democratic Institutions and Human Rights concluded that the participation in the December 2013 parliamentary elections of the Party of Industrialists and

Entrepreneurs was “no substitute for a genuinely pluralistic environment which would provide for the functioning of a political opposition to the incumbent authorities.”⁶⁰

Access to justice, non-discrimination and the protection of vulnerable groups

Non-transparent justice system and widespread corruption

As previously, the **justice system in Turkmenistan lacks independence and transparency**, and unknown numbers of individuals continue to serve prison sentences on politically motivated charges. The secrecy surrounding trials and imprisonments makes it impossible to determine the exact number of such prisoners. However, dozens of individuals convicted in flawed and politically motivated trials are known to have **disappeared in prison**, including individuals convicted in sham trials after the alleged assassination attempt on late President Saparmurat Niyazov in 2002. The UN Human Rights Committee has called on the authorities of Turkmenistan to put an end to the practice of incommunicado detention and imprisonment, to make known the whereabouts of those convicted for allegedly attempting to assassinate the former president and to grant them access to their lawyers and family members.⁶¹

Nepotism and corruption shown no signs of abating in Turkmenistan. In Transparency International’s annual Corruption Perceptions Index published in December 2014 Turkmenistan was again ranked as **one of the world’s most corrupt countries** (place 169 of 175).⁶² As documented by TIHR, corrupt practices are widespread within different state structures and institutions, and residents are required to pay bribes for ensuring basic services, ranging from getting through a traffic control to securing employment, business licenses or school enrolment. TIHR has also repeatedly reported about **arbitrary and unlawful measures taken by law enforcement and other officials** who abuse their positions for personal gain or implement orders by superiors in a rigid and heavy-handed way. Residents have little recourse to remedy given the lack of an independent judiciary in the country.

Shortcomings in the protection of the rights of the child

TIHR’s monitoring shows that the authorities have **failed to bring about substantial improvements in education and other key areas of the rights of the child** since President Berdymuhammedov took power in 2007.⁶³ A number of education reforms have been initiated and the length of compulsory education increased to 12 years. However, **more comprehensive and systematic reforms are needed to reverse the degradation of the education system** that took place during previous President Niyazov and to improve the quality of education. Lack of well-trained teachers and textbooks remain major problems. The education system is also still characterized by an ideological orientation. Teaching of the infamous *Rukhnama* authored by the previous president has been replaced with classes in writings of the current president, and students continue to be mass mobilized for holiday parades and other events aimed at demonstrating the well-being of the nation and praising its leader.

Children from ethnic minority groups have been denied the opportunity to study in their own languages due to the closure of schools and cutbacks in instruction in minority languages. While instruction in Russian has continued in selected classes in larger cities, the number of such classes has continued to decline.⁶⁴

When examining the situation in Turkmenistan in January 2015, the UN Committee on the Rights of the Child expressed concern, among others, about the lack of data to measure progress in the field of education, the continued practice of mass mobilization of students for various festive events and discriminatory practices towards children belonging to national minorities. It further called on the authorities to conduct a comprehensive assessment of the resources needed for guaranteeing children’s

rights, establish mechanisms to monitor and evaluate the efficacy and adequacy of the distribution of resources allocated for this purpose, and to take immediate measures to combat corruption.⁶⁵

Harassment and discrimination of ethnic and religious minorities

There are also concerns about continued **practices of discrimination against ethnic minority members** in other areas than education, as well as the **difficulties** experienced by some ethnic minority families **in legalizing their status** despite long-term residency in the country. As a result of this, they experience problems e.g. with respect to gaining employment, enrolling children in school and exiting the country.⁶⁶ **Dual Turkmen-Russian citizens** have for years been **subjected to pressure** to renounce their Russian citizenship in order to obtain new biometric Turkmen passports that are compulsory as of 2013. With a Turkmenistan-Russia agreement on dual citizenship expiring in mid-May 2015, TIHR has reported about a growing number of dual citizens leaving the country.⁶⁷

In a persistent pattern, religious minority communities face **problems in gaining registration** and are subjected to **raids on their meetings and other intimidation**.⁶⁸ As reported by TIHR, recent anti-terrorism efforts have entailed measures directed at so-called non-traditional Islamic groups, whose popularity has increased. Information received by the organization gives rise to concern that mass arrests carried out in this context since February 2015 may also have **targeted individuals merely for peacefully exercising their beliefs** outside strict state controls and for **planning to hold a rally** in the city of Tejen to protest food price hikes, unemployment and other socio-economic problems.⁶⁹

Concerns about evictions and repressive measures taken to promote “morality”

Another vulnerable group are families who are evicted from their homes due to government construction projects, or crackdowns on construction deemed “illegal”. As reported by TIHR, evictions are often carried out at short notice, and **many evicted families have not been granted adequate compensation or appropriate, alternative accommodation**. In some cases, families have been forced to stay in makeshift facilities for extended periods of time after being evicted.⁷⁰

TIHR has learned about an increasing number of evictions in connection with construction projects related to the 2017 Asian Games. This spring authorities have, among others, demolished holiday cottages on the outskirts of Ashgabat without providing the owners with compensation.⁷¹ These demolitions have affected people who have come to the capital in search of jobs and who have resided with their families in such cottages on an ongoing basis due to the lower rental level, in spite of the often substandard conditions.⁷² TIHR has also reported about difficulties faced by internal labour migrants in obtaining required residency registration in Ashgabat and harassment by law enforcement officials.

In the recent period, Turkmen authorities have **intensified efforts to enforce “moral standards” and “traditional values”** among especially young people, giving rise to concerns about repression under this pretext. Among others, as reported by TIHR, young couples have been warned by police not to hold hands or hug in public under the threat of detention or other repercussions and school girls have been subjected to humiliating medical checks in the name of combating “immoral” sexual practices (understood as pre-marital sex). Parents of school children have reportedly been required to sign pledges to bring up their children “to comply with the tradition, customs and culture of the Turkmen nation”,⁷³ and government officials have carried out inspections to track down possible “inappropriate” content on the cell phones of students.⁷⁴

Although prohibited, **polygamy is practiced** in Turkmenistan, especially in rural areas where such marriages are conducted according to the Islamic *nikah* tradition. The reasons for the prevalence of this practice include, among others, high unemployment and lack of access to vocational and higher

education among girls and women, and a decreasing male population due to migration and other factors. While TIHR is not aware of any cases where men entering into polygamous marriages have been brought to justice, numerous so-called “second wives” have been convicted for prostitution-related offenses.

Recommendations

Freedom of expression and the media

The authorities of Turkmenistan should:

- In accordance with the basic principles laid down in the 2013 Media Law, take concrete measures to put an end to media censorship, promote the growth of privately owned media and ensure that media can operate freely and without interference.
- Stop restricting access to foreign sources of information, including by dismantling satellite dishes of residents, and refrain from covering up information on issues of public concern.
- In accordance with the new law on internet regulation, take systematic measures to promote internet access and availability, and refrain from censoring, blocking or restricting the use of the internet in ways that are contrary to international freedom of expression standards.

Freedom of association and assembly

The authorities of Turkmenistan should:

- Request that independent, international experts review the Law on Public Associations and the Law on Assemblies in light of Turkmenistan’s international human rights obligations and amend this legislation in full accordance with the ensuing recommendations.
- Commit to elaborating an action plan for implementing systematic reforms to open up space for civic participation and the expression of alternative views in the country and seek cooperation from international organizations, human rights bodies and NGOs for this purpose.
- Abolish the prohibition on unregistered NGO activities and ensure that independent NGOs that so wish may obtain legal status in a fair and transparent process and carry out their activities without undue interference by authorities.
- Allow peaceful, spontaneous protests to take place without repercussions for the organizers and participants and welcome such protests as an opportunity to obtain information on concerns held by citizens that ought to be addressed by authorities.
- Put an end to the persecution of independent journalists, civil society activists and others who openly address problems in the country, including exiled activists and their family members in Turkmenistan.
- Ensure that the Law on Political Parties is implemented in a way that allows political parties independent from current state structures to obtain registration and operate freely in the country.

Access to justice, non-discrimination and the protection of vulnerable groups

The authorities of Turkmenistan should:

- As called for by the Human Rights Committee, take all necessary measures to safeguard the independence of the judiciary, and ensure that the country’s courts are not used to punish

individuals for politically motivated purposes. Immediately release all individuals who are imprisoned on such grounds and disclose the faith of those who have disappeared in prison.

- Acknowledge the serious level of corruption in the country and take robust measures to combat such practices, including by investigating corruption allegations and bringing perpetrators to justice.
- Take concrete steps to implement the recommendations made by the UN Child Rights Committee and publicly report on action taken to this end. Also, carry out systematic reforms to improve the quality of education and reverse its ideological orientation, and safeguard the right of ethnic minority children to obtain instruction in their own languages.
- Put an end to harassment and discrimination of ethnic and religious minorities, and ensure that members of such groups can peacefully exercise their fundamental rights without hindrance.
- Carry out any evictions in full accordance with due process requirements and grant those affected appropriate, alternative accommodation or other adequate compensation.
- Refrain from arbitrary measures infringing the integrity and rights of citizens in the name of enhancing moral standards, and take effective measures to address the root causes of polygamy instead of prosecuting women in such marriages for prostitution-related offenses.

¹ See statement by International Partnership for Human Rights, the Norwegian Helsinki Committee and Kazakhstan International Bureau for Human Rights and Rule of Law, “Kazakhstan court upholds newspaper’s closure over Ukraine coverage”, 27 February 2015, at <http://www.iphronline.org/kazakhstan-court-upholds-newspapers-closure-over-ukraine-coverage-20150227.html>

² “Shutdown of independent magazine in Kazakhstan further endangers media pluralism, says OSCE Representative”, 27 November 2014, at <http://www.osce.org/fom/127436>

³ According to information obtained by election observers from the OSCE Office for Democratic Institutions and Human Rights (ODIHR). See ODIHR Election Observation Mission, Interim Report, 16 April 2015, at <http://www.osce.org/odihr/elections/kazakhstan/151341?download=true>

⁴ Adil Soz foundation for the protection of free speech, “Сразу два уголовных дела возбуждено на журналистов газеты «Уральская неделя»”, 3 March 2015, at <http://www.adilsoz.kz/news/show/id/1763>; and update at <http://www.adilsoz.kz/monitoring/show/id/93>

⁵ Adil Soz foundation for the protection of free speech, Statistics of free expression violations in Kazakhstan in 2014 (in Russian), at <http://www.adilsoz.kz/politcor/show/id/143>

⁶ Eurasianet, “Kazakhstan’s Nervous Censors Block Reports on Ethnic Clash”, 7 February 2015, at <http://www.eurasianet.org/node/71976>

⁷ See “UN expert warns Kazakhstan against using ‘stability’ as excuse to curtail rights, voices concern at surveillance of sources”, 28 January 2015 and the related statement at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15518&LangID=E#sthash.P4X042hl.dpuf>

⁸ For more information about the concerns of civil society regarding the draft legislation, see report by Kazakhstan International Bureau on Human Rights and Rule of Law on the NGO briefing held on 27 March 2015 (in Russian), at http://bureau.kz/data.php?page=0&n_id=8075&l=ru

⁹ See Report of the Working Group on the Universal Periodic Review on Kazakhstan, December 2014, at http://www.upr-info.org/sites/default/files/document/kazakhstan/session_20_-_october_2014/a_hrc_28_10_e.pdf

¹⁰ Views adopted by the Human Rights Committee on Communication No. 2137/2012 at its 112th session on 7-31 October 2014.

¹¹ See more details in KIBHR, “Атеист Харламов давно на свободе, но дело в отношении него живет своей жизнью”, 2 February 2015, at http://bureau.kz/novosti/sobstvennaya_informaciya/article_7917

¹² “Ablyazov wins at Cassation Court in Paris”, 9 April 2015, at <https://www.facebook.com/notes/mukhtar-ablyazov/ablyazov-wins-at-cassation-court-in-paris/434517700016129>

¹³ Radio Free Europe/Radio Liberty, “Spain Will Not Extradite Kazakh Opposition Figure”, 24 April 2015, at <http://www.rferl.org/content/spain-will-not-extradite-kazakh-opposition-figure/26896476.html?>

¹⁴ Views adopted by the Human Rights Committee on Communication No. 2137/2012 at its 112th session on 7-31 October 2014.

¹⁵ See «Нас ограничивают в праве на защиту!», 25 February 2015, at http://bureau.kz/data.php?page=0&n_id=7998&l=ru

¹⁶ “International monitoring mission finds trial of Kazakhstan workers unfair”, 9 October 2012, at <http://www.civicsolidarity.org/article/573/international-monitoring-mission-finds-trial-kazakhstan-workers-unfair>

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- ¹⁷ See Report of the Working Group on the Universal Periodic Review on Kazakhstan, December 2014, at http://www.upr-info.org/sites/default/files/document/kazakhstan/session_20_-_october_2014/a_hrc_28_10_e.pdf and addendum to the report, March 2015, at http://www.upr-info.org/sites/default/files/document/kazakhstan/session_20_-_october_2014/a_hrc_28_10_add.1_e.pdf
- ¹⁸ See “Kazakhstan up for Universal Periodic Review”, 29 October 2014 (with links to the reports submitted by KIBHR and other Kazakhstani NGOs), at <http://www.iphronline.org/kazakhstan-up-for-upr-20141029.html>
- ¹⁹ “Open letter to the International Olympic Committee: Speak out against bill threatening LGBTI expression in Kazakhstan”, 16 April 2015, at <http://www.iphronline.org/ioc-letter-on-kazakhstan-20150416.html>
- ²⁰ See statement of preliminary findings and conclusions of the OSCE Parliamentary Assembly, the OSCE Office for Democratic Institutions and Human Rights and the European Parliament, 2 March 2015, at <http://www.osce.org/odhr/elections/tajikistan/143306?download=true>
- ²¹ See “CIS election observation mission assesses Tajik parliamentary elections free and democratic”, 2 March 2015, at <http://news.tj/en/news/cis-election-observation-mission-assesses-tajik-parliamentary-elections-free-and-democratic>
- ²² “Участие таджикских мигрантов в выборах 2015 под вопросом”, 4 December 2014, at <http://rus.ozodi.org/content/article/26724299.html>
- ²³ See Concluding observations of the Committee on Economic, Social and Cultural Rights on the second and third periodic reports of Tajikistan, March 2015, at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fTJK%2fCO%2f2-3&Lang=en
- ²⁴ The statement (in Russian) is available at: <http://nansmit.tj/sovместnoe-zayavlenie-zhurnalistskih-organizatsiy-respubliki-tadzhikistan/>
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http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fTJK%2f19278&Lang=en

⁴⁴ “Эмомали Рахмон осудил “чуждые таджикам” черные одеяния женщин”, 6 March 2013, <http://news.tj/ru/news/emomali-rakhmon-osudil-chuzhdye-tadzhikam-chernye-odeyaniya-zhenshchin>

⁴⁵ “Борода и хиджаб - признаки радикализма в Таджикистане?”, 11 May 2015, at http://www.bbc.co.uk/russian/international/2015/05/150511_tajikistan_beads

⁴⁶ “МВД Таджикистана отрицает наличие приказа о принудительном бритье бород”, 21 April 2015, at <http://www.regnum.ru/news/polit/1917549.html#ixzz3a8ESuDCC>

⁴⁷ See “Tajikistan: Open letter about measures taken in the fight against so-called crimes against morality”, 18 June 2015, at <http://www.iphronline.org/tajikistan-open-letter-about-fight-against-so-called-crimes-against-morality-20140618.html>

⁴⁸ Most recently, the ODIHR deemed that the deployment of an election observation mission to monitor the December 2013 parliamentary elections would not be of “added value”. See Needs Assessment Mission Report at <http://www.osce.org/odihr/elections/turkmenistan/104831?download=true>

⁴⁹ There are some exceptions, e.g. the Russian school in Ashgabat may subscribe to foreign publications.

⁵⁰ TIHR, “Remove everything! Ashgabat to host Asian Games”, 24 February 2014, at <http://www.chrono-tm.org/en/2015/02/remove-everything-ashgabat-to-host-asian-games/>

⁵¹ For more information, see TIHR, “Officials to be held responsible for children’s deaths,” 5 November 2014, at <http://www.chrono-tm.org/en/2014/11/officials-to-be-held-responsible-for-childrens-deaths/>

⁵² TIHR, “Compulsory subscription to Turkmen periodicals”, 22 April 2015, at <http://www.chrono-tm.org/en/2015/04/compulsory-subscription-to-turkmen-periodicals/>

⁵³ According to the latest available statistics from the International Telecommunication Union, available at <http://www.itu.int/ITU-D/ict/statistics/index.html>

⁵⁴ “New Internet law in Turkmenistan lays grounds for better access, but comes with undue restrictions Mijatović says”, 9 January 2015, at <http://www.osce.org/fom/133701>

⁵⁵ TIHR, “Persecution of Turkmenistan’s Kazakh community leader persists,” 13 February 2015, at <http://www.chrono-tm.org/en/2015/02/persecution-of-turkmenistans-kazakh-community-leader-persists/>

⁵⁶ RFE/RL, “Journalist Questioned In Turkmenistan Over Fresh Meat Story,” 17 December 2014, at <http://www.rferl.org/content/qishloq-ovozi-turkmenistan-fresh-meat-journalists-harassed/26749459.html>

⁵⁷ TIHR, “Новые подробности убийства туркменской журналистки”, 5 January 2015, at <http://www.chrono-tm.org/2015/01/novye-podrobnosti-ubiystva-turkmenскоy-zhurnalistki/>

⁵⁸ TIHR, “Honorary Member of the Russian Academy of Arts expelled from Turkmenistan’s Academy of Arts”, 16 May 2014, at <http://www.chrono-tm.org/en/2014/05/honorary-member-of-the-russian-academy-of-arts-expelled-from-turkmenistans-academy-of-arts/>

⁵⁹ On this issue, see also comments made by TIHR Chairman Farid Tukhbatullin in article by Deutsche Welle, “Туркмения: разрешение на митинги усложнит их проведение” from 13 March 2015, available at: <http://www.dw.de>

⁶⁰ OSCE/ODIHR Needs Assessment Mission Report, <http://www.osce.org/odihr/elections/turkmenistan/104831>

⁶¹ Par. 10 of Concluding Observations of the Human Rights Committee on the initial report submitted by Turkmenistan under the International Covenant on Civil and Political Rights, March 2012.

⁶² Transparency International, Corruptions Perceptions Index 2014, at <http://www.transparency.org/cpi2014/results>

⁶³ See TIHR and IPHR, “Turkmenistan’s child rights record under UN scrutiny”, 12 January 2015, at <http://www.iphronline.org/turkmenistans-child-rights-record-under-un-scrutiny-20140112.html>

⁶⁴ TIHR, “The use of Russian language in education to be reduced in Turkmenistan”, 2 July 2014, at <http://www.chrono-tm.org/en/2014/07/the-use-of-russian-language-in-education-to-be-reduced-in-turkmenistan/>

⁶⁵ UN Committee on the Rights of the Child, Concluding observations on the combined second to fourth periodic reports of Turkmenistan, adopted on 30 January 2015.

⁶⁶ TIHR, “Turkmenistani residents without passports”, 23 September 2014, at <http://www.chrono-tm.org/en/2014/09/turkmenistani-residents-without-passports/>

⁶⁷ TIHR, “Исход. Русские бегут из Туркмении”, 28 April 2015.

⁶⁸ For more information, see reports on Turkmenistan by Forum 18, at forum18.org

⁶⁹ TIHR, “Mass arrests in the south of Turkmenistan”, 16 March 2015, at <http://www.chrono-tm.org/en/2015/03/mass-arrests-in-the-south-of-turkmenistan/>; and “Arrests related to ‘Tejen case’ are underway in Turkmenistan”, 15 April 2015, at <http://www.chrono-tm.org/en/2015/04/arrests-related-to-tejen-case-are-underway-in-turkmenistan/>

⁷⁰ For example last year, TIHR reported that over 300 families whose houses had been demolished lived in barracks in deplorable conditions at the outskirts of the capital Ashgabat. See <http://www.chrono-tm.org/en/2014/05/powerful-and-happy-but-homeless-turkmen/>

⁷¹ “The village of Choganly to be demolished”, 26 March 2015, at <http://www.chrono-tm.org/en/2015/03/the-village-of-choganly-to-be-demolished/>

⁷² TIHR, “Spontaneous protest near Ashgabat”, 21 January 2014, at <http://www.chrono-tm.org/en/2014/01/spontaneous-protest-near-ashgabat/>

⁷³ Radio Azatlyk, “В Туркмении определены обязательства для школьников и их родителей”, 14 May 2014, at <http://www.chrono-tm.org/2014/05/v-turkmenistane-opredelenyi-obyazatelstva-dlya-shkolnikov-i-ih-roditeley/>

⁷⁴ TIHR, “Mobile telephones are not for Turkmen schoolchildren”, 16 April 2015, <http://www.chrono-tm.org/en/2015/04/mobile-telephones-are-not-for-turkmen-schoolchildren/>