



Freedom House UPR Stakeholder Submission - Kazakhstan

Introduction

1. This report is submitted by Freedom House to the Office of the High Commissioner for Human Rights (OHCHR) to be considered for inclusion in the summary of stakeholder submissions for the Universal Periodic Review of Kazakhstan, scheduled to take place in February 2010.

Executive Summary

2. This submission highlights the organizations' key concerns regarding Kazakhstan's compliance with its international and national human rights commitments in the areas of freedoms of the media, assembly, and religion.

Freedom of the Media

3. Kazakhstan is obligated to guarantee its citizens freedom of expression, including the right to impart and receive information and ideas, according to its own constitution and its obligations as a state party to the International Covenant on Civil and Political Rights. However, the entire structure of national laws regarding information contradicts these obligations.
4. Kazakhstani legislation regulating the operation of the media and of journalists is among the most restrictive in the post-Soviet space. The level of state regulation of the media and the threat of severe penalties for even minor violations severely limit the independent functioning of media in Kazakhstan. In 2009 alone, Kazakh journalists or media outlets were exposed to: unwarranted arrests (two cases), convictions (three cases), physical attacks (seven cases), threats (two cases), detentions (two cases), suspension of publication or broadcast (three cases) and interference with journalists' work (36 cases). Fourteen criminal cases were brought against journalists and media outlets. In five cases journalists were charged with slander, in another with provoking national/ethnic hatred, and in one more with failing to carry out a court order. There have been some 70 civil cases involving journalists, seeking a total of 1.317 billion tenge (\$8.78 million) in damages. Of these cases, government officials filed 29 complaints, legal entities 25 and individuals 16. Most recently, the Kazakhstani court sentenced the owner and chief editor of Alma-Ata Info newspaper to three years in prison. The court sentenced Ramazan Yesergepov for revealing state secrets—a charge he denies—in an article titled, "Who Rules the Country: the

President or the Kazakh National Security Committee?" Authorities seized Yesergepov from a hospital where he was being treated for hypertension in January, closed his trial to the public and forced his defense lawyer to resign from the case.

5. Despite promises to liberalize the media legislation, amendments to the law “On Mass Media” passed in January 2009 did not decriminalize slander and insult and did not eliminate special protections for government officials. Nor did it institute a statute of limitations in cases involving the defense of honor and dignity or reduce the level of fines or terms of imprisonment permitted in such cases.
6. Kazakh authorities exercise censorship over the internet, routinely blocking access to sites that publish material critical of the government or its leaders. The government has also repeatedly blocked the Live Journal web-site denying its citizens access to the world’s largest blogging platform. In July of 2009, the president of Kazakhstan signed a law on “Issues Related to Informational-Communications Networks”. The law defines all content that appears on the internet as "media"—including blogs, chat rooms and discussion forums—making them subject to a broad range of punishments under Kazakhstani legislation. The law expands the grounds that can be used to justify suspending or shutting down both traditional and internet media.

Recommendations

Kazakhstan should:

- de-criminalize slander and insult and eliminate legal provisions protecting “the honor and dignity” of state officials according to international standards
- limit penalties for procedural violations of media outlets, specifically excluding confiscation of products and equipment or the suspension or termination of operations
- eliminate legislative restrictions on media content and criteria governing who may occupy the post of editor-in-chief
- simplify procedures for registering mass media companies, establish an independent agency to oversee the registration process, and eliminate re-registration requirements in cases of changes in the editor-in-chief, office address, thematic focus or the frequency with which a publication is issued
- join the list of countries who have issued standing invitations to the special procedures of the Human Rights Council and specifically extend an invitation to the Special Rapporteur on freedom of expression

Freedom of Assembly

7. As is the case with freedom of expression, freedom of peaceful assembly is guaranteed by the Kazakhstani constitution but severely limited by legislation, particularly by the 1995 law “On Procedures for Organizing and Holding Peaceful Assemblies, Meetings, Processions, Pickets and Demonstrations in the Republic of Kazakhstan;” the 1995 law “On Internal Affairs Bodies in the

Republic of Kazakhstan;” and the 1998 law “On National Security of the Republic of Kazakhstan.” Several sub-legislative legal acts also restrict the freedom of peaceful assembly. These laws require that organizers receive government authorization for all types of assemblies, placing prohibitive restrictions on spontaneous protest actions. Moreover, Kazakh law does not include provisions for individuals to apply for government permission to hold an assembly. While reviewing applications for permission to hold a public assembly, local authorities frequently refuse requests on purely technical grounds rather than following up with the organizers to fix minor flaws in their applications. Penalties for violating the legal procedures for organizing and holding peaceful assemblies are severe, ranging from fines to administrative arrest (up to 15 days) to imprisonment (up to one year).

8. Police routinely detain demonstrators even if they do not present a real threat to public safety. A person may be arrested merely on suspicion of being a participant in an assembly. In almost half of the cases in which the police have dispersed assemblies, participants were not advised of the reasons behind the dispersal or provided an opportunity to continue the demonstration in a manner acceptable to the police.
9. In 2009, the authorities have employed various methods to prevent demonstrations by political parties, movements and public associations, including: failing to offer alternative sites after denying permission for demonstrations; claiming that other events were due to take place at the same time and location (in Aktobe, the authorities used this pretext six times in a single month to deny applications for protests planned by members of an opposition party); and threatening to arrest participants in a demonstration even after the organizers received permission from local authorities to hold the event. For example, in February of 2009 three men in civilian clothes questioned opposition party activist Lidiya Serebrennikova at her home, asking if she was paid to organize demonstrations in Taraz and offering her money if she refrained from taking part in them. At the same time, six members of the party were detained by the police while soliciting participation in a protest by opposition parties. Police stated that the six were arrested for offences including breaching the law by “calling on people to commit illegal acts.”
10. On April 14, 2009 three members of the youth organization *Ar.Rukh.Khak* were detained by the police in Almaty’s central square while preparing to protest the creation of a nuclear fuel bank in Kazakhstan. On April 21, additional members of *Ar.Rukh.Khak* were detained while making their way to the central square for “circulating their leaflets to people via e-mail.” They were held for two hours before being released.

Recommendations

Kazakhstan should:

- adopt a legislative framework allowing spontaneous assemblies and making it the primary obligation of local authorities and law enforcement bodies to assist citizens in exercising their constitutional right to assemble freely

- authorize peaceful assemblies in all public locations except those adjoining the premises of state agencies directly involved in national security and public order or public health
- develop new rules of professional conduct for law enforcement officers involved in maintaining public order during peaceful assemblies, including rules on interaction with organizers and participants

Freedom of Religion

11. Over the past four years the government of Kazakhstan has continued a trend of growing intolerance towards so-called “non-traditional” religions. This period has also witnessed increasing restrictions on freedom of conscience and expanded control over religious communities. Security agencies, particularly the National Security Committee (KNC), exercise an unacceptably large influence over state policy on religion, actively promoting the adoption of repressive laws, maintaining “black lists” of “harmful and destructive sects” and engaging in actions to “identify” and “suppress” them. In 2006, a Committee on Religious Affairs was created within the Ministry of Justice. The Committee has an extensive range of functions and powers exceeding those of the analogous agency that existed in Soviet times.
12. In 2005, three laws were adopted with the aim of “battling extremism” and “strengthening national security.” Taken together, these laws dramatically increased legislative restrictions on freedom of conscience and religion. Religious confessions and denominations that are deemed “non-traditional” in Kazakhstan—including the Jehovah’s Witnesses, the Baptist Council of Churches, the Hare Krishna, Pentecostals, Adventists, non-Sunni Muslims, and Scientologists—have been targeted by these restrictions.
13. From December 2007 to February 2008, three trials were held in Karaganda, Shymkent and Stepnogorsk (the first two of which were closed to the public), resulting in convictions of 54 individuals, who received sentences ranging from five to nineteen and one-half years imprisonment for religious extremism and preparing acts of terror. These trials were accompanied by an extensive campaign against religious minority groups in the state-controlled mass media.
14. In January 2009, a local court in Almaty sentenced a Unification Church missionary, Elizaveta Drenicheva, to two years in prison for spreading “propaganda of ideas on the inferiority of certain groups of people because of their ancestral and social background.” The charges stemmed from a series of presentations explaining her church’s religious doctrines. The court based its verdict in part on “expert” testimony commissioned by KNC that claimed Drenicheva had espoused a doctrine that humans are imperfect and should devote their lives to preparing for the second coming of the Messiah, which could “destroy one’s personality and social and moral values.” After an intensive advocacy campaign by Kazakhstani human rights groups, the city court of Almaty freed Ms. Drenicheva in March, but did not strike down her conviction.

15. Also this year, three Baptist pastors were jailed for several days for conducting unregistered worship, while other members of the church were detained, fined, and had their property confiscated. The Baptists argued that the law “On Religion and Religious Organizations” contradicts the Constitution of Kazakhstan and human rights-related treaties ratified by Kazakhstan that call for religious organization to be allowed to work without registration.
16. On February 16, 2009 the Inter-district Economic Court in the Karaganda region ruled that the church of Scientology in Karaganda should be closed because its activities were commercial rather than religious. Church officials noted that this pretext could be used to close virtually any religious establishment, because they all receive donations and are paid for performing religious rituals and services.
17. In February 2009 the Kazakh Constitutional Court deemed unconstitutional a bill passed by parliament that would have imposed even further restrictions on freedom of religion. This was a positive step. However, changes need to be made to the existing law on religion to bring it in line with Kazakhstan’s own constitution and its international obligations to uphold religious freedom. The incidents detailed in this report make clear that the current situation requires more than the introduction of amendments and supplements to existing legislation. It demands a conceptual revision of Kazakhstan’s current legislation on freedom of religion and the authorities’ repressive approach to religious groups.

Recommendations

Kazakhstan should:

- amend the constitution to abolish Article 22, Clause 2, which states that: “The exercise of the right to freedom of conscience shall not condition or limit universal and civil rights and obligations before the state”
- create a legal framework in which the state ensures every citizen’s right to freedom of conscience and upholds the principles of separation of church and state, freedom of religious affiliation, and the equality of all believers and religious organizations
- abolish the Committee on Religious Affairs within the Ministry of Justice
- join the list of countries who have issued standing invitations to the special procedures of the Human Rights Council and specifically extend an invitation to the Special Rapporteur on freedom of religion or belief

Attachments

[Freedom in the World 2009: Kazakhstan](#)

[Freedom of the Press 2009: Kazakhstan](#)

[Nations in Transit 2009: Kazakhstan](#)