

In its last Universal Periodic Review in February 2010, Kazakhstan received and accepted 7 recommendations regarding human rights defenders (HRDs), committing to effectively investigate and prosecute violations committed against HRDs, to take concrete measures to create an environment that fosters freedom of expression, and to develop a legal framework for protection of the right to assembly. Despite its promises, Kazakhstan's official restrictions continue to gravely threaten the activities and safety of HRDs today.

1. Risks facing human rights defenders

- Kazakhstan is characterised by the use of State legislation and apparatus to severely restrict freedom of expression and assembly as well as human rights monitoring and promotion.
- In addition to fear and censorship provoked by Kazakhstan's repressive laws, the Human Rights Watch World Report for 2014 documented that HRDs in Kazakhstan face physical and verbal threats, acts of intimidation, judicial harassment, and arbitrary detention.¹
- In December 2011, security forces used provocation, unidentified attackers, social pressure, staged accidents, and detention to suppress an oil workers' strike in Zhanaozen. According to Open Dialogue, this brutality resulted in at least 17 fatalities, 86 casualties, and 37 convictions.²

2. Official restrictions on the space for human rights defenders

- According to the Kazakhstan International Bureau for Human Rights and Rule of Law, Kazakhstan continues to severely restrict the right to freedom of assembly, both in law and in practice. Unsubstantiated charges such as hooliganism, bribery of public officials, and terrorism are regularly used as a pretext to intimidate and detain activists.³
- Article 19 of the Kazakhstan Criminal Code continues to criminalise libel, with harsh penalties including imprisonment and hard labour. There is no legal limit on damages and cases are frequently brought against journalists.⁴
- In 2010, the Kazakh Parliament adopted amendments to the constitutional laws entitled 'On the leader of the Nation', introducing a new Article 317-1 to the Criminal Code. This new article protects the President and his family from insult and defamation, and may be used to suppress any dissenting voice against the President or his policies.⁵
- In 2010, Kazakhstan pressed ahead with legislation restricting media rights, despite the Organization for Security and Cooperation in Europe's urgings to veto the bill. The legislation allows local courts to block domestic and foreign websites, and to restrict personal blogs and chat rooms.⁶
- A 2004 Kazakhstan Law 'On the procedure for organizing and conducting peaceful assemblies, meetings, marches, pickets, and demonstrations in the Republic of Kazakhstan' renders assemblies almost impossible. This oppressive law violates both Article 21 of the International Covenant on Civil and Political Rights and Article 32 of Kazakhstan's Constitution.⁷

3. Intimidation and reprisals against defenders accessing international human rights mechanisms

- In its 2013 Annual Report, Front Line Defenders raised concerns over State reprisals against Kazakh HRDs for cooperating with UN human rights bodies.⁸

4. Human rights defenders facing particular risks

- Front Line Defenders reports that a number of women human rights defenders were subjected to sexual harassment,⁹ forced psychiatric confinement,¹⁰ threats, and imprisonment.¹¹

¹ <http://www.hrw.org/world-report/2014/country-chapters/kazakhstan>

² http://www.odfoundation.eu/en/neft/319/calendar_of_strikes_of_the_oil_industry_workers_in_western_kazakhstan_mangistau

³ http://www.bureau.kz/data.php?page=0&n_id=6520&l=en

⁴ <http://humanrightshouse.org/Articles/16019.htm>

⁵ <http://www.fidh.org/en/eastern-europe-central-asia/Kazakhstan.756/KAZAKHSTAN-2010-2011>

⁶ <http://www.reuters.com/article/2009/07/13/us-kazakhstan-internet-law-idUSTRE56C1GA2009071>

⁷ <http://www.hrw.org/node/76351/section/6>

⁸ http://www.frontlinedefenders.org/files/frontline_annual_report2013_0_2.pdf

⁹ http://www.frontlinedefenders.org/files/frontline_annual_report2013_0_2.pdf

¹⁰ <http://awid.org/Library/Kazakhstan-Forced-psychiatric-confinement-of-human-rights-lawyer-Ms-Zinaida-Mukhortova>

¹¹ <https://www.frontlinedefenders.org/node/22913>

5. The lack of response of the State regarding the protection of human rights defenders

- In July 2012, the UN High Commissioner for Human Rights Navi Pillay visited Kazakhstan and issued a highly critical statement on the country's deteriorating human rights record and called for an independent international investigation into use of force and fatalities associated with the oil workers' strike.¹²
- The National Human Rights Action Plan for 2009-2012, drafted by government representatives and civil society, aimed to increase protection of Kazakhstan nationals' civil and political rights and freedoms. During the 4 years of implementation, Kazakhstan only fulfilled 23% of its goals.¹³
- In response to Kazakhstan's unsuccessful implementation of its National Human Rights Action Plan, the EU raised concerns during the European Union – Kazakhstan Dialogue in 2013 regarding freedom of expression, the status of civil society organisations and excessive restrictions on the press.¹⁴
- The Kazakh government has announced proposals to develop a new National Human Rights Action Plan.¹⁵
- In September 2007 several Kazakh civil society organisations submitted a draft law on freedom of assembly to the President's Commission on Human Rights. The draft contemplated international best practice and standards and civil society requested that the Commission send it to the Office for Democratic Institutions and Human Rights and the Council of Europe's Venice Commission for revision. To date, neither the parliament nor the government has reacted to the draft presented by civil society.¹⁶

6. Recommendations to the Government of Kazakhstan

- The State should immediately support and facilitate an independent international investigation into the use of force, injuries and fatalities associated with the December 2011 oil workers' strike in Zhaonaozen.
- The State should abolish legal provisions such as Article 19 of the Kazakhstan Criminal Code and the 2004 law on peaceful assemblies, which permit unnecessary restrictions on the activities of HRDs.
- The State should draft laws and protocols to ensure that police management of protests conforms to established international standards.
- The State should abolish the 2010 media legislation, which permits unnecessary sanctioning of domestic and international websites, as well as personal blogs and chat rooms.
- The State should revoke Article 317-1 of the criminal code, which may be used to suppress any dissenting voice against the President or his policies.
- The State should develop and implement a new National Human Rights Action Plan, as proposed during the EU – Kazakhstan Dialogue in 2013.
- The State should ensure that the new National Human Rights Action Plan includes concrete steps, measures and policies for the protection of human rights defenders.
- In developing policies for the protection of human rights defenders, the State must ensure special attention to the situation of women human rights defenders and the particular risks they face.
- The State should ensure a thorough review of legislation on freedom of assembly, and should contemplate the 2007 draft law on freedom of assembly, proposed by civil society groups, amongst proposals for new policies compliant with international law.
- The President's Commission on Human Rights should send the 2007 draft law on freedom of assembly for review to the ODIHR and the Council of Europe's Venice Commission, as requested by civil society.
- The State should put into place specific laws and protective measures to safeguard human rights defenders against reprisals when interacting with regional and international human rights mechanisms.
- The State must ensure the investigation and prosecution of all aggressions against human rights defenders, including those committed through the abuse of public office or the justice system.

The European Union – Kazakhstan Dialogue in 2014 represents an opportunity for the Kazakh government to present its new National Human Rights Action Plan, which in turn offers a platform for the development of new policy which responds to international human rights standards. The opportunity must also be taken to broaden space for human rights defenders, civil society and freedom of expression and assembly, through comprehensive legislative reform and action.

¹² <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12343&LangID=E>

¹³ http://eeas.europa.eu/delegations/kazakhstan/press_corner/all_news/news/2013/13.03.2013_en.htm

¹⁴ http://www.eu-un.europa.eu/articles/en/article_14305_en.htm

¹⁵ http://www.eu-un.europa.eu/articles/en/article_14305_en.htm

¹⁶ <http://www.hrw.org/node/76351/section/6>