

2 November 2009

Situation of human rights defenders in Kyrgyzstan

Submission by Front Line, The International Foundation for the Protection of Human Rights Defenders

Introduction

The following submission has been prepared based on information received from independent human rights defenders in Kyrgyzstan. Front Line is an international NGO based in Ireland with Special Consultative Status with the Economic and Social Council of the United Nations. We have particular expertise on the issue of the security and protection of human rights defenders and we work to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998.

Front Line is concerned by the recent degrading of the situation of human rights defenders in the Republic of Kyrgyzstan. In 2008 the parliament of the Kyrgyz Republic adopted a set of laws which restrict several of the fundamental civil and political rights enshrined in the Constitution of the Kyrgyz Republic. Particularly affecting the activities of human rights defenders are the amendments adopted by parliament on 13 June 2008 to the 2002 Law 'On the Right of Citizens to Hold Peaceful Assemblies'. The amendments restricted freedom of assembly, protected under the Constitution of the Kyrgyz Republic and international law, by establishing a licensing regime for public assemblies. These amendments directly contradicted two rulings by the Constitutional Court of the Kyrgyz Republic (dated 14 October 2004 and 1 July 2008) which ruled that the establishment of any licensing regime for public assemblies is unconstitutional. The amended law has granted official authorities broad discretionary powers to prohibit meetings and demonstrations. As a result, all protests organised after the law was amended were forcibly dispersed by the authorities and the participants were prosecuted.

In one case, a human rights defender who had organised a peaceful meeting was subjected to enforced psychiatric treatment (see further below). This is especially alarming because of its unprecedented character in the Republic. Kyrgyz authorities have also banned from entering the national territory foreign human rights defenders working on human rights violations committed in Kyrgyzstan.

Systematic denial of freedom of assembly

The arbitrary detention of participants to peaceful gatherings is systematic in the Kyrgyz Republic. The repression of peaceful demonstrations has especially escalated during the presidential campaign in summer 2009 which resulted in the arrest of hundreds of peaceful demonstrators. Many human rights defenders were detained, accused of violating Article 371 and 392 of the Administrative Code (sanctioning respectively disobedience to public authorities and disturbing public order by organising gatherings, meetings, demonstrations and protest marches), and sentences to fines or short-term imprisonment.

- On 17 March 2009, a demonstration entitled "Civil hour in memory of Aksy!" was held to

commemorate the 7th anniversary of Aksy tragedy when six demonstrators were shot dead, 28 were wounded, and about 100 were ill-treated for participating in a peaceful rally on 17 March 2002. The "Civil hour in memory of Aksy!" demonstration was attended by about 50 persons. On 18 March 2009, the demonstrators had planned to light candles in memory of the Aksy tragedy victims, but they were dispersed by police officers who arrested the head of Human Rights Centre Citizens against corruption Ms **Tolekan Ismailova**. Ms Tolekan Ismailova was detained in the Department of Internal Affairs of Pervomaysky district. She was released the same day after the district tribunal found her not guilty. However, a formal warning was issued under Article 371 of the Administrative Code (disobedience to public authorities).

- On 25 July 2009, a peaceful rally held in the framework of Global action for Iranian Post-election Crisis was interfered with by local authorities in Bishkek. Ms **Tolekan Ismailova**, **Aida Bajumanova**, **Evgeniya Krapivina** and **Diana Makembaeva**, all members of the Human Rights Centre Citizens against corruption, Mr **Timur Shaihutdinov**, member of Youth and Student rights Advocacy Council of Ombudsmen, Ms **Erkingul Imankulova**, from the Public Association Karek, and other human rights defenders were unlawfully detained in the Pervomaysky district police department of Bishkek. All the detained were accused of violating articles 371 and 392 of the Administrative Code and sentenced to fines.
- On 30 July 2009, Ms **Tolekan Ismailova**, Ms **Asiya Sasykbaeva**, director of the centre Interbilim, Ms **Aziza Abdirasulova**, head of the Human Rights Centre Kylym Shamy, and Ms **Gulnara Dzhurabaeva** were arrested while calling on the government to release 87 individuals, who have protested the contested presidential elections. They were asked to stop the protest action by the Deputy of Pervomaysky district police department. The human rights defenders were taken to the police department, then brought to Pervomaysky district Court of Bishkek, which sentenced them to a fine.
- On 17 August 2009, human rights defenders Ms **Aziza Abdyrasulova**, Ms **Tolekan Ismailova**, Ms **Asia Sasykbaeva** and Ms **Dinara Oshrahunova** and other participants to a peaceful meeting near the building of National Security Service received an official warning from the prosecutor of Pervomaysky district of Bishkek notifying them that public gatherings near State administration buildings were prohibited. However, the organisers complied with all provisions of the Law on peaceful demonstrations and informed the state officials 12 days in advance about the date. The meeting was organised by the human rights organisation 'Kylym Shamy' in the defence of human rights during the counter-terrorist operations carried out by the National Security Service.
- During 2008-2009, human rights defender Mr **Maxim Kuleshov** from the "Peace! Light! Culture!" public association initiated and carried out dozens of peaceful protests in support of democracy in the city of Bishkek and in Tokmok. All the protests arranged by Maxim Kuleshov lasted for not more than 10 to 15 minutes, because they were subject to suppression by employees of the Ministry of Internal Affairs of the Kyrgyz Republic. In most cases Kuleshov was arrested and delivered to the Pervomaysky police department of Bishkek and later he would be subject to administrative penalties by the Pervomaysky district court of Bishkek.

Enforced psychiatric treatment

- On 4 March 2009, Mr **Maxim Kuleshov** was illegally arrested in front of the White House in Bishkek, by police officers from the Department of Internal Affairs of Pervomaysky district, while participating in one of several demonstrations forming part of the "Street Democracy Lessons" project. Instead of bringing him to court, the police officers took him to Bishkek psychiatric facility where he was injected with an unknown substance. Front Line possesses a medical certificate which confirms that Maxim Kuleshov was given an injection. He was released on 5 March 2009 "due to an absence of symptoms which would warrant forced psychiatric hospitalisation".

Denial of access to the national territory

- On 12 October 2008, Mr **Ivar Dale**, representative of the Norwegian Helsinki Committee in Central Asia, was denied access to the Kyrgyz territory despite holding a valid one-year visa. He received a 10-year entry ban which is probably related to his efforts to further develop the human rights activities of the Norwegian Helsinki Committee in the country.
- On 26 February 2009, Mr **Vitaly Ponomarev**, head of Central Asia program of the Russian Human Rights Centre Memorial, was deported from Kyrgyzstan and banned from visiting Kyrgyzstan for 5 years. This came one month after the publication by Memorial of a report on human rights violations (including tortures and fabrication of criminal cases) in Kyrgyzstan during Nookat events.

Front Line calls upon the UN to urge the authorities in Kyrgyzstan to prioritise the protection of human rights defenders and in doing so to:

1. Conduct an independent inquiry into all the instances of threats, ill-treatment, intimidation and judicial harassment directed towards human rights defenders mentioned in this report, with a view to identifying those responsible, publishing the results and bringing those responsible to justice;
2. Immediately take urgent measures to prevent any further case of enforced psychiatric hospitalisation of human rights defenders;
3. Repeal entry bans against foreign human rights defenders and guarantee freedom of movement and association in the country, in accordance with the UN Declaration on Human Rights Defenders;
4. Repeal the amendments introduced to the 2002 Law 'On the Right of Citizens to Hold Peaceful Assemblies' for revision, and guarantee the freedom of assemblies in the Republic of Kyrgyzstan;
5. Guarantee the physical and psychological integrity of all human rights defenders whilst in prison and ensure that they are not tortured or ill-treated, as is their right under Article 5 of the Universal Declaration of Human Rights;
6. Ensure that all human rights defenders in Kyrgyzstan are free to carry out their legitimate human rights activities without fear of reprisals or restrictions.