

Respecting Human Rights in Central Asia: Will this Stabilize or Destabilize the Region?

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Introduction

Central Asia during the last years more or less stayed below the radar of international media attention. Only a few events (e.g. the ouster of the Kyrgyz president in March 2005 and the killing of civilians in Andijan/Uzbekistan in May 2005) made it into international headlines. This article shall provide a short overview about key Human Rights problems in the region.

1. Status of Ratification of international Human Rights Conventions and Commitments

At least on paper human rights should be well protected in Central Asia. All five states showed great willingness to sign international human rights conventions and to take over international commitments within the context of the United Nations as well as on the regional level. All five states have ratified at least six¹ out of the nine UN core Human Rights Conventions,² Kyrgyzstan and Tajikistan having ratified seven.³ All five countries are participating states of the Organization for Cooperation and Security in Europe (OSCE) and as such are bound to respect human rights as laid down in the CSCE Helsinki Final Act 1975, The Copenhagen Document 1990 and other related OSCE documents. Beyond that, two Central Asian states (Kyrgyzstan and Tajikistan) also have ratified the Convention on Human Rights and Fundamental Freedoms 1995 of the Commonwealth of Independent States (CIS). All Central Asian states are members of the Shanghai Cooperation Organization (SCO). Art. 1 of the SCO Charter states as one of the organization's goals 'to promote human rights and fundamental freedoms in accordance with the international obligations of the member States and their national legislation...'

Considering the various international commitments and ratifications Human Rights in Central Asia could be considered well protected. However, knowledge and understanding of these commitments among state officials is generally low and parliaments occasionally pass laws which contradict the countries international obligations.

Kazakhstan, Kyrgyzstan and Uzbekistan have established an ombudsman institution in their country in order to protect and promote Human Rights — Tajikistan is in the process of creating one. However, none of these National Human Rights Institutions (NHRI) so far lived up to expectations or could be considered an effective tool to protect and promote human rights as outlined in the Paris Principles 1993.⁴ As a result none of these institutions so far has received accreditation with the International Coordination Committee for National Human Rights Institutions.

2. Lack of Proper Implementation

Most observers will agree that the problem with human rights in Central Asia lies with implementation. While

1 International Covenant on Economic, Social and Cultural Rights (ICESCR); International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of all Forms of Discrimination against Women (CEDAW); Convention on the Rights of the Child (CRC); International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

2 The three others are Convention on the Protection of All Migrant Workers and Members of their Families (CMW); Convention on the Rights of Persons with Disabilities; International Convention for the Protection of All Persons from Enforced Disappearance (not yet in force).

3 CMW.

4 UN GA A/RES/48/134, 4 March 1994

the legislative frame work in most Central Asian countries during the past years has improved, human rights violations are still widespread. Across the five states certain patterns of human rights violations emerge:

- While all five states have signed the Convention against Torture (CAT) human rights reports indicate a high number of torture cases. The situation in Uzbekistan seems to be particularly worrying: ‘Although the constitution and law prohibit such practices, police and officers of the National Security Service (NSS) routinely beat and otherwise mistreated detainees to obtain confessions or incriminating information. Police, prison officials, and the NSS reportedly also used methods of abuse including suffocation, electric shock, deprivation of food and water, and sexual abuse in addition to beatings. Torture and abuse were common in prisons, pretrial facilities, and local police and security service precincts.’⁵
- Turkmenistan is considered the country which is the furthest away from to fulfilling minimum conditions for democratic elections,⁶ while the 2004 parliamentary election in Uzbekistan ‘fell significantly short of OSCE commitments and other international standards for democratic elections.’⁷ Only Kazakhstan, Kyrgyzstan, Tajikistan fulfill those minimum standards for democratic election which make the deployment of a full OSCE election observation mission possible. However, these missions frequently reveal serious shortcomings, the refusal of the Kyrgyz Central Election Commission to issue the final election result of the 2007 parliamentary election being one striking example. During the August 2007 Parliamentary election in Kazakhstan only the ruling party gained seats in the parliament.
- The degree of freedom of media varies from country to country. Establishment of free and independent media is prevented through a system of frequent (re)licensing and state control. As a rule control of media tightens during the months leading to elections. During the past years several journalists were killed in Central Asia. Libel remains a criminal offense.
- In Central Asian, male dominated societies women are still discriminated against in various ways: Lack of adequate representation in political institutions, unequal access to economic resources, insufficient protection against domestic violence by law enforcement agencies, forced marriages and bride kidnapping.⁸ A high number of cases of self-immolation of women per year in Tajikistan, Uzbekistan and Turkmenistan⁹ indicates the desperate conditions under which some women live. Cases of trafficking of human beings, mainly women and children are reported to take place in several countries.¹⁰

5 US State Department report on Uzbekistan 2008, Section 1c, <http://www.state.gov/g/drl/rls/hrrpt/2007/100623.htm>

6 See OSCE/ODIHR Needs Assessment Mission (NAM) report on the Turkmen 11 February 2007 presidential elections which states that there is ‘no guarantee for a competitive election to be conducted in line with the 1990 OSCE/ Copenhagen Document’, and the NAM report regarding the 2008 Parliamentary Elections: ‘While interlocutors indicated that seats in the Mejlis would be contested by more than one candidate, the current political context does not allow for a meaningful competition. Although the legal framework allows for the registration of political parties, there is only one registered party in Turkmenistan. Furthermore, civil society organisations are placed under the same leadership as the party and the State, and the domestic media are controlled by the State.’

7 OSCE/ODIHR limited elections observation mission report on the 26 December 2004 parliamentary elections in Uzbekistan.

8 Compare HRW report 2006, Kyrgyzstan: Bride-Kidnapping, Domestic Abuse Rampant

9 Fueled by Abuse: Self-immolation and Family Violence in Central Asia, http://www.unfpa.org/gender/docs/fact_sheets/family_violence.doc

10 IOM, Fertile Fields. Trafficking in Persons in Central Asia, <http://www.belgium.iom.int/pan-europeandialogue/documents/TRAFFICKING%20IN%20PERSONS%20IN%20CENTRAL%20ASIA.pdf>

- Freedom of speech and freedom of assembly are not guaranteed in Turkmenistan and Uzbekistan. But also a country considered more open such as Kyrgyzstan recently has passed legislation which significantly restricts freedom of assembly. In Kazakhstan 'public assembly is very tightly controlled, and any politically motivated public meeting is likely to be denied a permit or broken up by police, or both.'¹¹
- Arbitrary arrests and illegal detentions frequently take place. Inhuman conditions in prisons and detention facilities¹² are common and frequently lead to prison riots. Similarly, patients in mental health facilities are often kept under appalling conditions.¹³
- Widespread corruption is affecting the work of the administration and the judiciary. In the Transparency International Corruption Perceptions Index 2008¹⁴ Kazakhstan ranks # 145, Tajikistan # 151 and the three others are on #166. Corruption not only is weakening the state structures but it also negatively affects the position of vulnerable groups with regard to protection and access to basic needs.
- The judiciary is not independent, remains dominated by the executive branch and is vulnerable to political pressure.¹⁵ This negatively affects all parts of society, including the fairness of elections and the business environment.
- Violation of the rights of refugees not to be extradited to countries where his/her life or freedom will be threatened takes place as well as enforced disappearance of refugees.
- Violations of labor rights and of the right to associate in trade unions.¹⁶ Child labor is still wide-spread in Central Asia.¹⁷
- Restrictions concerning freedom of religion are an emerging pattern across Central Asian countries.¹⁸

As a consequence of these human rights problems the recent Freedom House World Survey 2009¹⁹ assesses four out of five Central Asian states as not free. The exception is only Kyrgyzstan (partly free). However, even this country is regarded as facing a 'down ward trend ' due to 'new legislative constraints on the media and freedom of assembly, as well as moves by the authorities to enfeeble the political opposition and silence civil

11 HRW, Kazakhstan. An Atmosphere of Quiet Repression, p. 2 http://www.hrw.org/sites/default/files/reports/kazakhstan1208webwcover_0.pdf

12 See ICG Report <http://www.crisisgroup.org/home/index.cfm?id=4568>

13 'Mental Health Law of the Kyrgyz Republic and its Implementation', Mental Disability Advocacy Centre, 2003.

14 http://www.transparency.org/policy_research/surveys_indices/cpi/2008

15 Compare e.g. the report of the Special Rapporteur on the independence of judges and lawyers on Kyrgyzstan 2005, <http://daccessdds.un.org/doc/UNDOC/GEN/G06/100/12/PDF/G0610012.pdf?OpenElement>

16 Compare <http://survey08.ituc-csi.org/survey.php?IDContinent=4&IDCountry=KGZ&Lang=EN>

17 Gulnoza Saidazimova, Central Asia: Child Labor Alive And Thriving, <http://www.laborrights.org/stop-child-labor/cotton-campaign/1464>

18 Compare: Statement of the US Commission on International Religious Freedom on the new draft law in Kyrgyzstan, http://www.uscirf.gov/index.php?option=com_content&task=view&id=2307&Itemid=46; HRW, Kazakhstan. An Atmosphere of Quiet Repression, p. 2 http://www.hrw.org/sites/default/files/reports/kazakhstan1208webwcover_0.pdf

19 <http://www.freedomhouse.org/template.cfm?page=445>

society'.²⁰

3. Election a la Central Asia

Let us look more in detail into some of these issues. Four out of the five Central Asian republics officially claim to base their political system of governance on representative democracy and multi-party system. Recurrent elections in these countries in fact take place. However, do these elections really contain all functions which genuine democratic elections should fulfil? The function of election in a democratic society is to turn the will of the people into an election result; to allocate authority (to select a new parliament or president); to provide the people with the possibility to change the policy makers (to be able to vote them out); to execute control over authorities (holding the incumbent parliament/government accountable); to balance the different interests within a society; to shift decision making concerning competing interests from the 'backroom ' or the 'street ' to the parliament; to create a sustainable system of governance.

In the past 15 years election in Central Asia fulfilled only part of these functions. Although all presidents and governments emphasize that their legitimacy comes from elections, the understanding that elections should offer the opportunity to change the government has not taken root so far. Neither the parliamentary nor the presidential elections since 1992 resulted in a change of policy makers. In none of the Central Asian countries have opposition parties or opposition movements been able to come to power through elections.

Incumbent presidents and ruling parties may argue that the reason that they so far have won all elections lies in the genuine support which they receive from the people. However, looking through the reports of election observation missions there are more likely explanations why no opposition movement so far gained a majority: incumbents excessively using administrative resources, governments' control over media, restrictions regarding freedom of assembly, administrative obstacles with regard to registration of parties and candidates, undue pressure on candidates, biased Central Election Commissions, and a poor conduct of polling on election day.

Similarly, state control over media — regularly tightened during the months leading to election — limits the voters' ability to make an informed choice and reduces the election's function to exercise control and accountability.

If the possibility to change policy makers and to exercise control and accountability do not exist elections remain a hollow endeavour with largely ceremonial character. Examples of how rigged elections can lead to civil unrest and chaos do not only exist in Africa. Flawed parliamentary elections in Kyrgyzstan in February/ March 2005 led to the ouster of the president and the looting of buildings in the centre of Bishkek.

Presidents and ruling parties are eager to base their legitimacy on elections, but there is no similar commitment to allow control, accountability or change in power. Where there is no possibility to come to power through election the danger appears that oppositional movements will turn to other strategies.

20 http://www.freedomhouse.org/uploads/fiw09/FIW09_OverviewEssay_Final.pdf, p. 16.

4. Restricting Political and Religious Freedom as a Potential Source of Extremism

After the collapse of the Soviet Union all five Central Asian countries decided to establish a secular state with a clear division between state and religion — a system which all states maintained until today. Officially freedom of religion exists in all five states — however, the actual level varies from country to country.

Having a century-old Islamic tradition, which was only interrupted by Soviet rule after 1923, society in Central Asia since 1992 has experienced a growing re-islamization (particularly in rural areas). Presently only in one country — Tajikistan — an Islamic party (the Islamic Revival Party of Tajikistan/IRPT) is permitted while in all other countries parties with religious background are prohibited. The IRPT, an important political force in the Tajik civil war, gained its registration and legalization in 1999 as the result of the Tajik Peace Accord.

Governments in Central Asia emphasize the continuation of a secular state as one of their key goals. Against the background of poor living conditions and a socio-economic crisis in many parts of Central Asia Islamic grass root organizations and their social networks are able to attract young people in rural areas. Central Asian governments still struggle to develop a viable strategy to properly address the long-term challenges of this development. Administrative control and repression against religious movements, as executed particularly in Uzbekistan, results not only in a large number of human rights violations but will eventually turn out to be counter productive. Instead of winning the ‘hearts and minds of the people ‘ it potentially prepares a breeding ground where terrorist movements can recruit their supporters.

The proximity of Afghanistan as well as terrorist groups operating across the borders of Central Asia in fact constitute a potential threat. The five Central Asian countries could play an important role in the global fight against terrorism. However, combating terrorism can not be a justification to commit human rights violations. As stated in many UN documents after September 2001 the fight against terrorism has to take place within the guaranteed framework of human rights and should not be taken as a pretext to commit and justify Human Rights violations. The UN General Assembly in its resolutions 60/288 (September 2006) reaffirmed that the ‘promotion and protection of human rights for all and the rule of law is essential to all components of the Strategy, recognizing that effective counter- terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism...’

5. Realization of Economic and Social Rights in CA would Contribute to the Stabilization of Societies

The collapse of the Soviet Union plunged Central Asia into a deep economic crisis. The GDP of some countries fell by up to 30-40 % in the first years after 1992. Now, 15 years later, only Kazakhstan can be seen as a country with an economic success story. Its per capita GDP is several times higher than in the neighboring countries. All states face a growing gap between the rich and the poor as well as gross regional disparities which leaves many people with only limited access to basic needs such as food, health, housing and education.²¹

In parts of Central Asia cotton production still remains the predominant form of agriculture, particularly important in Tajikistan, Turkmenistan and Uzbekistan. The way the cotton production is organized includes

21 See UNDP Central Asia Human Development Report 2005, <http://europeandcis.undp.org/poverty/show/301A44C5-F203-1EE9-B2E001AFF98B054B>

severe human rights violations. 'The economics of Central Asian cotton are simple and exploitative. Millions of the rural poor work for little or no reward growing and harvesting the crop. The considerable profits go either to the state or small elites with powerful political ties. Forced and child labor and other abuses are common.'²² It contributes to 'political repression, economic stagnation, widespread poverty and environmental degradation'.

Having signed the Covenant on Economic, Social and Cultural Rights the five Central Asian Countries would be obliged to use the 'maximum of its available resources', in order to achieve 'progressively the full realization' of economic, social and cultural rights (ICESCR Art. 2). Civil society so far has not sufficiently used this provision as a leverage to build up public pressure and to advocate for an improved fulfillment of economic and social rights. Budget analysis and monitoring of public spending could be used for evidence-based argumentation whether or not states fulfill their commitments and in order to advocate for a pro-poor policy.

Lack of possibilities to earn a living in their own country forces hundreds of thousands of migrant workers from Kyrgyzstan, Tajikistan and Uzbekistan to work abroad every year (predominately in Kazakhstan and Russia). Poverty and unemployment are breeding grounds for social unrest and extremism. The current energy crisis in Tajikistan and Kyrgyzstan is a good example of the inability of the ruling elites to adequately develop the countries' natural resources. Lack of development, misuse of state funds, and corruption deprive the poor in particular from benefiting from the natural resources of the countries.

Long-term stability in Central Asia will only be achieved if the basic needs of the population are fulfilled and if the wealth generated in each country will be distributed in a way that all sectors of the society will receive their share.

6. Kazakh OSCE Chairmanship 2010 — Obstacle or Chance to put Human Rights and Democracy Back on the Agenda?

OSCE participating states have elected Kazakhstan to take over the chairmanship of the Organization for Security and Cooperation in Europe in 2010. The decision was taken after lengthily and controversial discussions among member states whether or not Kazakhstan would be a worthy candidate taking into consideration its deficits with regard to meeting standards of democratic elections and respect of human rights.

The recent Human Rights Watch Report: Kazakhstan. An Atmosphere of Quiet Repression. Freedom of Religion, Assembly and Expression in Kazakhstan,²³ published on the eve of Kazakhstan joining the OSCE Troika, highlights human rights deficits in the field of freedom of thought, conscience, religion, expression and assembly. HRW claims that 'Kazakhstan continues to actively restrict the exercise of these rights', and argues that 'its upcoming chairmanship, therefore, risks undermining the integrity of the OSCE's human rights principles' (p.1). While this indicates a bleak perspective HRW on the other side urges the EU to use 'Kazakhstan's upcoming OSCE chairmanship ... to push for concrete progress in human rights and make such progress a core objective of EU engagement with Astana, including but not exclusively in the framework of the human rights dialogue' (p. 53).

22 See ICG Report 'The Curse of Cotton: Central Asia's Destructive Monoculture', Asia Report N°93, 28 February 2005, <http://www.crisisgroup.org/home/index.cfm?id=3294>

23 http://www.hrw.org/sites/default/files/reports/kazakhstan1208webwcover_0.pdf

Kazakhstan, the most developed country in Central Asia, is the first post- Soviet country to lead the OSCE. Its impact in Central Asia — if it would assume a leadership role to put human rights back on the agenda — would be far reaching. However, considering Kazakhstan’s domestic human rights policy, expectations that Kazakhstan might send a strong signal regarding the need to increase respect of human rights in Central Asia should not be too high. In particular it would be unrealistic to consider that Kazakhstan would launch a call for reforms which would weaken the present power base the ruling elites enjoy in any of the five Central Asian countries.

However, OSCE member states should urge Kazakhstan to take at least a pro- active role regarding human rights issues which are less ‘power-related ‘ such as combating trafficking on human beings, protection of women against domestic violence, enforcing labor rights, combating child labor, protection of refugees, or elimination of torture.

Supporters and critics of the decision to elect Kazakhstan as OSCE chairman in the next two years will very closely monitor not only the human rights situation in Kazakhstan itself but also which initiatives the country will launch to improve the human rights situation in the region as a whole. Human Rights NGOs and civil society have already started to urge Kazakhstan to stand up to its responsibilities and to improve its human rights record. As such Kazakhstan’s OSCE chairmanship should be seen as a window of opportunity to bring the issue of human rights and democratic elections in Central Asia back on the agenda. However, it seems to be unlikely that Kazakhstan itself would assume a driving role in this process.



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