

# **Human Rights: An International Context and Internal Developments. A View from Kazakhstan – The Future OSCE Chairmanship Country (2010)**

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For several decades the human rights activists in countries with non-democratic, authoritarian or totalitarian governments believed that appeals to international and intergovernmental institutions, democratic governments and international human rights organizations were probably the most effective - if not the only - way to influence their governments to improve the human rights situation and resolve particular cases.

Such appeals have rarely led to significant changes towards democracy, greater rule of law and respect for human rights within the framework of the Human Dimension as defined by the documents established by the Organization for Security and Co-operation in Europe (OSCE). Sometimes, however, they yielded positive results in specific cases related to persecution of political opponents, journalists or human rights activists.

Even in the Soviet Union dialogue with democratic governments sometimes resulted in the release of dissidents from prison, granting them permission to emigrate or, for a specific example, convinced the Soviet government to trade Vladimir Bukovski for Luis Corvalán.

After the break-up of the Soviet Union, the leaders of the newly emerged states, who generally represented the same Communist bureaucracy, remained sensitive to criticism from the outside. In the early years of independence there was a desire to accept the values and principles of the global community for the sake of integration and acceptance. During the first half of the nineties the governments of the region, including the Central Asian states, made efforts to observe rules of decorum. They tolerated political opposition, even though it was to a limited degree. They allowed for operation of an independent mass media and NGOs, including human rights organizations. Political imprisonment hardly existed. The region's authorities also reacted to the appeals from democratic governments and international NGOs by devising detailed answers, which sometimes betrayed their somewhat nervous reaction to such appeals, but nevertheless often contained constructive promises and proposals.

The mid-nineties marked a significant change of policy; and the declaration of war on terror brought along a dramatic deterioration.

### **Human Rights in Central Asia: International Political Context**

It should be noted that, in general, the advancement of democracy and human rights in the modern world has had four main adversaries: oil, gas, war on terror and geopolitics. These issues increasingly determine decisions taken at all levels, including those related to the ability of the international community to influence the countries where human rights violations are widespread.

International politics has had an increasing influence on domestic human rights conditions and this influence is clearly a negative one. 60 years after the adoption of the Universal Declaration on Human Rights and 10 years after the adoption of the Declaration on Human Rights Defenders, the international prospects for democracy and human rights development are so dim that human rights activists from authoritarian and totalitarian states face the need to address global issues rather than domestic ones, because without addressing the global concerns it is impossible to have positive perspective for addressing internal problems.

As far as Central Asian countries are concerned, their governments have ratified virtually every single international treaty on human rights and have joined the United Nations and the OSCE. These governments, however, have failed to meet the majority of their obligations under the ratified international treaties (e.g.

under the OSCE commitments) and faced no major consequences for this failure. Like a litmus test, this situation has allowed us to assess the ability of international organizations and democratic states to advance the development of democracy, civil society and human rights in any region of the world, including Central Asia.

The outcome of the test demonstrates, first of all, the weakness of existing international human rights instruments and mechanisms. Secondly, it shows the lack of ability of international organizations (including the UN and the OSCE) to enforce the states' responsibilities for failure to observe their international human rights obligations.

Thirdly, we can see a crisis developing in the international human rights law. International treaties and human rights instruments (including legally binding commitments to promote democracy and civil society, rule of law and respect for human rights) de jure are a part of international law, but de facto are treated like 'second rate' treaties when compared to security and economic cooperation agreements. Failure to implement human rights treaties almost never entails any consequences for the violators.

And finally, global politics is now dominated by the 'double standards' of democracy and human rights dependant on energy, economic and geopolitical concerns as well as security considerations.

Moreover, in view of the failure of OSCE member states to observe their 'third pillar' commitments within the framework of the OSCE — the very organization where the US and EU member states play a key role — any criteria or obligations have become quite abstract indeed.

### **Human Rights in Central Asia: Internal Political Context**

During the last fifteen years after the disintegration of the Soviet Union, personality-based authoritarian regimes have emerged in all of the countries of this region. Power is concentrated in the hands of the top officials – presidents and their administration. No serious political or economic decision can be taken in absence of the manifested will of the head of state. For any decision to take shape, manifestation of political will should go hand in hand with specific steps of implementation. The differentiation between the real political will aimed at democratic reform and the imitation of such will is crucial.

The post Communist elites of the former Soviet Union territory have mastered the skill of creating not only a 'manageable democracy' as Russia's Vladimir Putin has put it, but also 'imitation' or 'façade' democracies. This means that while the state and public institutions and mechanisms (i.e. Constitutions, elections, parliaments, local elections, political parties, mass media) formally correspond to the notion of constitutional democracy, in essence they are quite similar to the Soviet predecessors. The Central Asian constitutions provide for nominal rather than real separation of powers, they lack checks and balances and fail to institutionalize political pluralism. The Soviet type, one-party parliaments are a regular feature in the countries of the region. These political systems do not provide for any fundamental political rights and civil freedoms.

Freedom of speech and mass media is either non-existent (as in Turkmenistan and Uzbekistan) or limited by means of the state's full political control of TV and radio, as well as attempts to control the Internet (Kyrgyzstan and Kazakhstan).

Political opposition is either prohibited (Turkmenistan and Uzbekistan), or hindered through extensive registration procedures, limited access to voters and nation-wide mass media (Kazakhstan, Kyrgyzstan). Elections are a farce and nobody, possibly apart from the authorities, believes in voting results.

Turkmenistan and Uzbekistan have eliminated freedom of assembly, Kazakhstan limits this right severely, while Kyrgyzstan is slightly more liberal in that respect. The freedom of religion and confession is manifested through intolerance of non-traditional religions and persecution of missionaries. Torture is widespread and prisons are overcrowded.

### **Civil Society in Central Asia and Human Rights Groups as Part of It: International Context**

Civil society in Central Asian countries has no distinct shape. The few civil institutions surviving since the beginning of 90s are divided and weak. In this situation the human rights NGOs find themselves in a rather difficult position.

Human rights NGOs can pretend that the main purpose of their existence is to monitor the human rights violations and inform the domestic and international communities of monitoring results. Or they can organize seminars and conferences, make statements, conduct training together with other NGOs, governments and international organizations. However, since the problem areas not only persist, but even expand, the human rights activists find it more difficult to work both at the national and international lever. Hence a need arises to define a strategy for the regional and international human rights movement.

There are a number of ways the human rights NGOs can co-operate with international organizations. For example, human rights NGOs draft shadow (alternative) reports to be submitted to the UN treaty bodies and act as co-speakers at the sessions where governments present their treaty reports. NGOs present their own views, which convention bodies often take into account when making their own recommendations. Does this ever lead to any real improvement? Never! Firstly, the governments' reports on implementation of human rights treaties are often late or completely disregard the established deadlines. Secondly, most authoritarian countries implement only a few (if any) recommendations of technical nature and ignore recommendations that require essential changes. Finally, the UN does not have any effective mechanisms to control and influence the states that fail to implement their commitments, as well as recommendations of treaty bodies.

Human rights NGOs assist in developing complaints to the European Court on Human Rights (in countries within its jurisdiction). This is the most effective mechanism given that the Court's rulings have a binding legal effect for all the parties. However, Russia, for example, hinders the activity of this Court and in a number of cases does not implement its decisions. An individual complaint may be lodged to the UN treaty body, which would make an advisory decision that very often is not implemented at all.

NGOs may take part in the OSCE meeting on human dimension and speak of the failure of the country-members to implement their commitments within the OSCE framework. However, this again rarely results in any real changes. The OSCE documents and recommendations are not legally binding and a number of OSCE member states, the former Communist bloc countries in particular, believe that they do not have to implement these recommendations.

NGOs may attend meetings with Western diplomats and/or politicians and ask them to influence the leaders

of authoritarian and dictatorship countries, but the scope of Western countries' decisions is limited due to the aforementioned oil, gas, antiterror and geopolitical reasons, as well as due to the collapse of international mechanisms of legal and negotiation-based conflict resolution and issue settlement.

Domestic NGOs may address international non-governmental organizations that would draft a statement, call on the country's authorities to observe human rights, to release political prisoners, or to demand a stop to the persecution of a particular party, mass media or religious group. Does this yield any results? None whatsoever. Authorities will simply ignore these statements and appeals.

This is specifically why the position of human rights activists in the authoritarian and totalitarian countries should be addressed at the international level.

### **Kazakhstan and OSCE Chairmanship: prospectives**

Will the 2010 Kazakhstan's chairmanship in the OSCE play any role in changing the status quo? Hardly so, since the basis for the decision on Kazakhstan's chairmanship did not lie in the advancement of democracy, rule of law and/or human rights. Obviously, the main reason for this decision was based on geopolitical concerns valid within the framework of a 'tug of war' between the EU, the US and Russia.


When the chairmanship issue was in discussion, a number of countries (e.g. the US and Great Britain) called upon Kazakhstan's authorities to promote political democratization and demonstrate firm commitment to the OSCE principles and obligations. The 2006 OSCE Ministers meeting has addressed Kazakhstan with similar calls.

In 2007, however, Kazakhstan introduced new constitutional amendments providing for greater authoritarian concentration of power. Since the Majilis (lower chamber of Parliament) elections in August 2007 the Parliament no longer has opposition members.

At the end of 2007, right before the decision on the 2010 OSCE chairmanship was taken, the Kazakhstan's Foreign Minister Marat Tazhin announced country's intention to implement liberal political changes, including liberalization of the election, political parties and media legislation, as well as adoption of new local self-government laws. In December 2008 these intentions were implemented in merely a decorative, cosmetic way.

In 2009, Kazakhstan will join the OSCE Troika as a future chairmanship country. However, it is already obvious that human rights issues in relations to the OSCE chairmanship will be dominated by the geopolitical concerns within the US-EU-Russia triangle. OSCE will be used as one of several platforms where the geopolitical issues will be played. Hence, the three parties will try to use Kazakhstan's chairmanship to their own advantage.

At the same time the human rights issues inside Kazakhstan and other Central Asian states will develop in accordance with their own internal logic, while Central Asian societies will remain objects of domestic and geopolitical developments, rather than active actors.



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