

Introduction and key concerns

1. This submission focuses on the situation of human rights defenders (HRDs) in Kyrgyzstan and covers developments from January 2015 to June 2019.

2. Front Line Defenders believes that the overall situation of the defence of human rights has not improved since the last UPR cycle and has identified the following key points of concern:

- (a) **A restrictive legal framework** enabling reprisals for human rights work, including legislation on extremist activities and legal provisions on the dissemination of false information, both of which are used against HRDs;
- (b) **High-level smear campaigns and stigmatisation** against HRDs. Although draft laws on “foreign agents” and “anti-gay propaganda” were not adopted, discussion around them helped to fuel hatred and resulted in smear campaigns targeting NGOs and defenders of the LGBTI+ community;
- (c) Specific targeting of **human rights defenders working on LGBTI+ and sex worker rights**;

3. Despite the efforts of President Sooronbay Jeenbekov, who took the office on 24 November 2017, to engage with civil society representatives, long-term human rights issues and measures impacting on the work of HRDs, as outlined in the last UPR cycle, have not been effectively addressed.

4. Deep-rooted corruption remained a serious challenge to strengthening the rule of law in the country. Aggravated by a difficult economic environment, the issue of corruption was visible in the work of the judiciary and law enforcement authorities, including in cases where HRDs working on LGBTI+ issues were subjected to extortion under the threat of violence or the threat of having their sexual orientation or gender identity reported to their families.

5. Although no new violent ethnic clashes were registered in the period under review, the authorities failed to comply with international standards in providing access to justice and a guarantee of the right to a fair trial in the aftermath of the violent conflict between ethnic Kyrgyzs and Uzbeks in the south of country in June 2010 which left more than 400 people dead. Prominent HRD **Azimjan Askarov**, was arrested in the aftermath of the violence and sentenced to life imprisonment on false charges of organising mass riots, instigating ethnic hatred and being involved in the murder of a policeman¹. The government has consistently refused calls to release Askarov, including from the UN Human Rights Committee, which issued an opinion in March 2016 calling for his release². The authorities have also failed to conduct an effective investigation into the reported torture of Azimjan Askarov.

Developments since previous UPR cycle

¹ <https://www.frontlinedefenders.org/en/case/azimjan-askarov-sentenced-life-imprisonment>

² <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=19853&LangID=En>

6. During the last review, Kyrgyzstan accepted seven recommendations regarding the protection of HRDs, all of them relating to ensuring a safe and free environment for the exercise of their peaceful and legitimate work³. However, throughout the given period a number of cases were reported to Front Line Defenders revealing Kyrgyzstan's failure to adhere to these commitments. HRDs in the country have faced intimidation, threats, smear campaigns, harassment and physical attacks in reprisal for their human rights work, coming from both state and non-state actors. Despite Kyrgyzstan accepting recommendations from Lithuania and Ireland to promptly investigate attacks and allegations of harassment, torture and ill-treatment of HRDs, defenders reported a reluctance of law enforcement authorities to open investigations and a lack of results in cases when such investigations were opened.

7. Eight recommendations concerning freedom of association were accepted by the state. During the last cycle, a draft law known as the “foreign agents bill”, which proposed a number of restrictions on and additional obligations for human rights NGOs receiving funding from abroad, was the main point of concern in relation to freedom of association. Although the bill was rejected by Parliament on 12 May 2016, the long-lasting discussion around the proposed amendments significantly contributed to the stigmatisation and suspicion of human rights organisations. In the absence of new restrictive NGO-specific legislation, the authorities have employed existing law, including legislation on extremist activities and terrorism, to obstruct and ban the activities of human rights NGOs, which have also faced illegal searches of their offices, surveillance and other forms of harassment. For example and in a clear act of reprisal for interacting with United Nations mechanisms, on 5 January 2017 a report submitted by the **Anti-Discrimination Centre "Memorial"** to the United Nations Committee on the Rights of Migrant Workers was labelled as “extremist material” which resulted in a ban on Centre’s activities in Kyrgyzstan.

8. The state accepted 22 recommendations in relation to torture and ill-treatment. However, the authorities failed to adhere to these commitments. As in the case of Azimjan Askarov, allegations of torture and ill-treatment reported to law enforcement authorities were frequently not properly investigated. HRDs working on issues of torture reported difficulties in accessing detainees, and threats and harassment in relation to their work coming both from state and non-state actors. Although Kyrgyzstan accepted a recommendation from Sweden to investigate cases of violence, torture and degrading treatment against LGBTI+ persons, the authorities were in fact often perpetrators of such violence, creating an especially difficult environment for HRDs working on issues of the LGBTI+ community. Front Line Defenders received several reports of attempts of extortion by police officers targeting LGBTI+ HRDs, but the victims declined to report these cases to the police or make them public out of fear of reprisals against them.

(a) Restrictive legal framework

9. The current legal system in Kyrgyzstan does not include laws directly restricting or banning peaceful and legitimate work of HRDs. However, the authorities have used the existing legal system to judicially harass defenders in order to restrict their activities.

³ These recommendations were made by Lithuania (117.26, 119.24), Austria (117.102), Uruguay (117.111), Belgium (117.112), Denmark (117.113) and Ireland (117.114).

10. Legislation on extremist activities and terrorism has been employed to disrupt the human rights work of HRDs. On 27 March 2015, the apartments of human rights lawyers **Valerian Vakhitov** and **Khusanbay Saliev**, as well as the office of the organisation **Bir Duino** at which they were working, were searched in connection with the case of an American journalist who was tried for extremist activities⁴. Although the HRDs had minimal connection to the case and did not face any charges, documents relating to more than a hundred legal cases on which they were working were seized in the course of the searches.

11. Given the history of ethnic conflict, the state has strong legislation relating to incitement of ethnic hatred. However, Front Line Defenders has documented cases where this legislation has been used against HRDs working to protect the rights of ethnic minorities. On 9 June 2016, the representatives of human rights organisation **Spravedlivost** were questioned by the police in relation to a complaint they had received claiming that Spravedlivost had been inciting inter-ethnic hatred⁵. This came as a result of the organisation's work on the protection of ethnic Uzbeks whose property had been demolished or who were under threat of an eviction without fair compensation by the municipality.

12. For his work documenting human rights violations in the 2010 Kyrgyz-Uzbek ethnic conflict, as well as investigating and reporting cases of police abuse and poor prison conditions, **Azimjan Askarov** is serving a life-sentence (see above) and has also reported being subjected to torture. While his health has deteriorated in detention, his family has faced harassment and threats of eviction from their home⁶. Moreover, lawyers working on his case including **Nurbek Toktakunov**, **Tolekan Ismailova** and human rights organisation **Bir Duino** have faced smear campaigns, threats and mob-attacks in relation to the case. In February 2019, a video with intimate content was posted anonymously and circulated on Internet. It aimed at presenting Toktakunov as a “drug addict”; he was targeted because he was Askarov’s lawyer.

13. Legal provisions on libel, defamation and reputational damage were used by the authorities to curtail freedom of expression in the given period. On 20 April 2017, the Office of the General Prosecutor filed a criminal case on charges of “offending the dignity of the President Almazbek Atambayev” against human rights lawyer **Cholpon Djakupova** in relation to a public statement she made calling on the President to respect freedom of association and assembly at an event organised by the Human Rights Ombudsman. In February 2018 the house of the human rights defender was put up for auction to cover the costs of compensation ordered to be paid to the President. In May 2018 the President dropped his request for compensation from Djakupova.

(b) Smear campaigns and stigmatisation

14. Although the draft law on “foreign agents” was not adopted by the Parliament, the discussion on this issue at the highest levels of the government contributed to the stigmatisation of NGOs' human rights activities and created an atmosphere of suspicion around their activities. State representatives have frequently discredited the work of HRDs, publicly accusing them of promoting the interests of foreign states and institutions thus

⁴ <https://www.frontlinedefenders.org/en/case/case-history-valerian-vakhitov>

⁵ <https://www.frontlinedefenders.org/en/case/case-history-spravedlivost>

⁶ <https://www.frontlinedefenders.org/en/case/azimjan-askarov-sentenced-life-imprisonment>

compromising national interests, security and values. On 14 May 2016 the President accused HRDs **Tolekan Ismailova** and **Aziza Abdirasulova** of serving the interests of foreign donors. This statement fuelled a smear campaign in the media and on social media directed at the two defenders⁷. On 23 May 2019, a meeting organised by the Coalition against Torture was interrupted by the Youth Patriotic Movement of Kyrgyzstan, a nationalist youth group; the group claimed that the meeting had been financed by Western countries and was aimed at destabilising peace in Kyrgyzstan.

15. A discriminatory draft law on “anti-gay propaganda”, proposing administrative and criminal prosecutions for dissemination of any information that contributes to a positive attitude towards non-traditional sexual relationships, has been neither declined nor accepted since its submission to the Parliament in 2014 and has caused long-lasting discussion. Given the conservative nature of Kyrgyz society, the bill not only fuelled hatred against the LGBTI+ community but also significantly stigmatised and endangered HRDs working on their protection. Front Line Defenders received reports from HRDs who were physically attacked in reprisal for their outspoken position against the proposed law. As in other such cases reported to this organisation, the HRDs did not want the incidents to be made public for fear of their own safety.

16. On 28 January 2017, HRD **Izzatilla Rahmatullaev** was verbally assaulted by a member of a radical nationalist group on the grounds of his ethnic origin and human rights work. The attacker shouted that ‘all Uzbek people must be executed by a firing squad’ and that he should be imprisoned similarly to Azimjan Askarov⁸. As a result of the verbal attack Izzatilla Rahmatullaev, who is an elderly man, suffered a collapse.

(c) Human rights defenders working on LGBTI+ and sex worker rights

17. Although same-sex relationships were decriminalized in Kyrgyzstan in 1998, HRDs working with the LGBTI+ community have been operating in an environment of extreme hostility, which has manifested itself in discrimination, violence and hate speech against them based on their gender identity and sexual orientation. Front Line Defenders received reports on cases of physical attacks on individual HRDs and organisations working on LGBTI+ issues, threats against them and their families, as well as defamation campaigns emanating from homophobic and nationalist groups and their own families.

18. While the rate of violence against LGBTI+ HRDs as reported to Front Line Defenders has been high, such cases were often not reported to the police. Many HRDs working to protect LGBTI+ rights have expressed a high level of mistrust towards the police. This is a result of low level of protection afforded to the LGBTI+ community from the law enforcement authorities and threats, insults and even attacks and extortion perpetrated by them.

19. Kyrgyz authorities have also failed to provide sufficient protection of the right to peacefully assemble to representatives of the LGBTI+ community. A permission-based procedure for the organisation of meetings and peaceful gatherings allows authorities to be selective about the issuance of such permission, which has resulted in few LGBTI+

⁷ <https://www.frontlinedefenders.org/en/case/public-insult-human-rights-defenders-tolekan-ismailova-and-aziza-abdirasulova>

⁸ <https://www.frontlinedefenders.org/en/case/assault-izzatilla-rahmatullaev-causes-him-suffer-cardiac-collapse>

public gatherings being permitted to take place. Furthermore, when such gatherings do occur, they have been subjected to attack a number of times by the radical groups, as reported to Front Line Defenders.

20. Following the establishment of the Department for Combating Human Trafficking and Crimes Against Public Morality as a new police unit in 2014, police restarted the formerly abolished practice of forcibly testing sex workers for HIV and STIs. Defenders of the rights of sex workers doing outreach work in sex trade “hotspots,” have been arrested in brothels and hotels. Defenders report that in several instances between 2015 and 2017, dozens of sex workers and sex worker rights defenders were arrested at once, and subsequently detained, physically and sexually assaulted, and violently subjected to forced medical tests in police stations, often without the consultation or presence of a trained medical professional. Sex worker rights defenders report that by 2016, the vast majority of police departments and units were empowered to raid sex work establishments, demand bribes from workers, confiscate their identity documents, and refuse to return the property or release the workers until they submitted to medical test. These mass arrests and forced HIV tests drastically reduced sex worker rights defenders’ ability to conduct their work safely and effectively.

21. Sex worker rights defenders coordinating emergency response after mass arrests and those accompanying detained sex workers through court proceedings have been detained, harassed, and threatened by police. During a 2018 research mission, Front Line Defenders documented cases in Bishkek, Osh, Karakol, and Jalal-Abad of police officers threatening sex worker rights defenders with arrest or sexual assault if they did not stop their human rights work. When responding to emergency calls from sex workers being held in police stations, sex worker rights defenders receive sexualized comments and verbal harassment from police officers, and have been touched and groped by police officers outside of court rooms when they accompany fellow sex workers to trials.

Recommendations to the Government of Kyrgyzstan:

22. Front Line Defenders calls upon the member states of the UN Human Rights Council to urge the Kyrgyz authorities to prioritise the protection of HRDs, and, in doing so, to:

- (a) Take measures to ensure that the existing legislation is not misused to limit the legitimate work of HRDs, with a view to ensure its compliance with international human rights standards;
- (b) Take measures to ensure that the judicial system is not used to restrict the legitimate and peaceful work of HRDs, including by refraining from charging defenders with extremism and libel with the purpose of disrupting their work;
- (c) Carry out an immediate, thorough and impartial investigations into all reported instances of attacks, harassment and targeting of HRDs, following their human rights work as a main investigation line;
- (d) Take all the necessary measures, including legislative, to ensure the protection of human rights defenders working on LGBTI+ and sex workers rights from violence, ill-treatment, torture and stigmatisation;
- (e) Ensure access to justice for those unfairly prosecuted in the aftermath of 2010 Kyrgyz-Uzbek ethnic conflict; immediately release Azimjan Askarov and quash his conviction;

- (f) Take swift measures to hold the law enforcement officials accountable for abuses against human rights defenders and ensure an effective prevention of such abuses in the future;
- (g) Publicly recognize the positive and legitimate role of HRDs in a democratic society and ensure that public officials refrain from engaging in stigmatisation and smear campaigns against HRDs and ensure that they publicly apologize in cases where they do so;
- (h) Adopt appropriate measures to ensure that HRDs under its jurisdiction can exercise in practice their right to freedom of opinion and expression;
- (i) Guarantee in all circumstances that all HRDs in Kyrgyzstan are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions including judicial harassment, and ensure full respect for the UN Declaration on Human Rights Defenders;