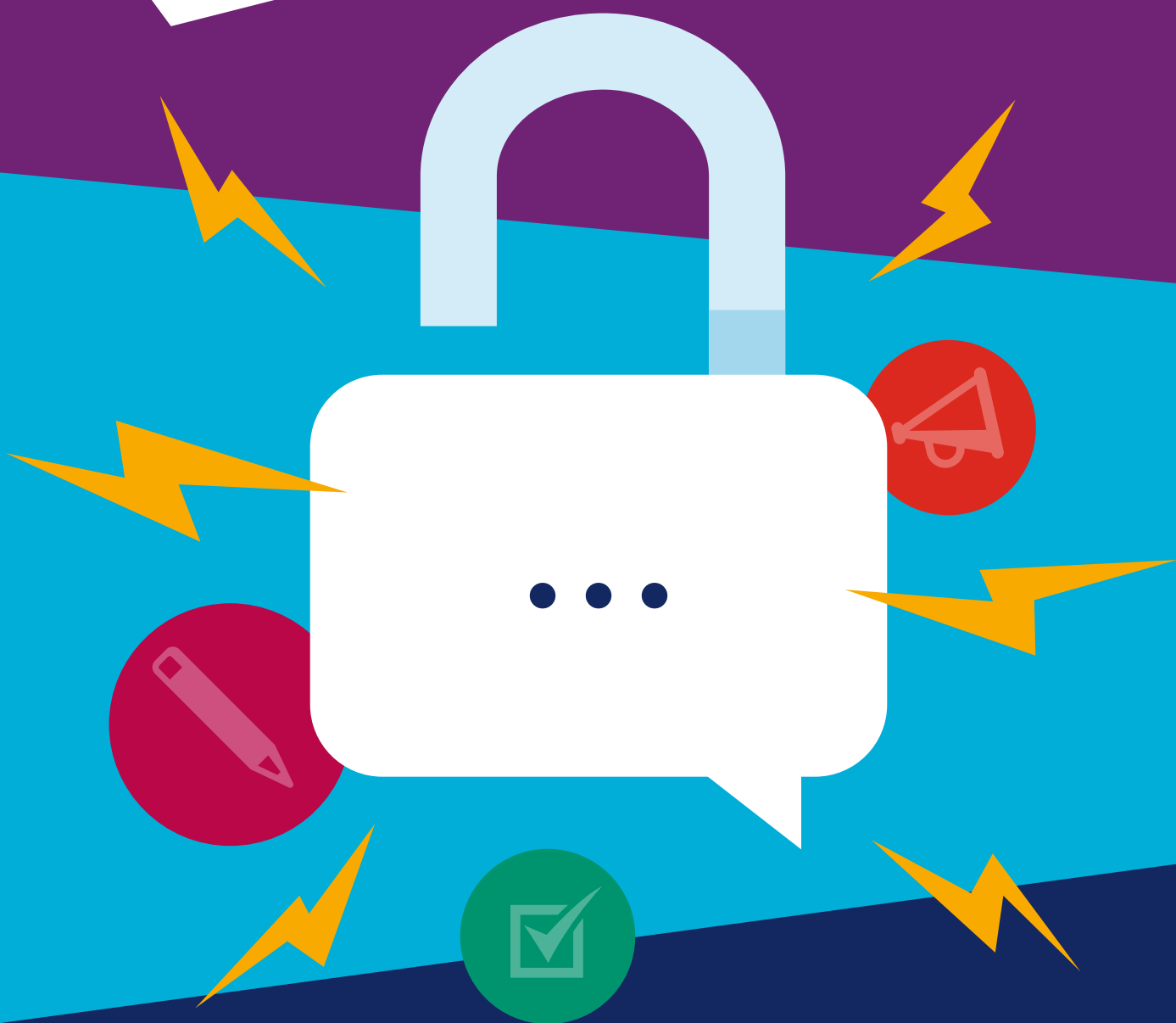


ARTICLE 19



Freedom of expression and elections in Kyrgyzstan

2020



This project is funded by
the European Union



MEDIA
DIALOGUE

ARTICLE 19
Free Word Centre 60 Farringdon Road London,
EC1R 3GA
United Kingdom

T: +44 20 7324 2500
F: +44 20 7490 0566
E: info@article19.org
W: www.article19.org
Tw: [@article19org](https://twitter.com/article19org)
Fb: facebook.com/article19org

A19/ECA/2021/019/English

© ARTICLE 19, 2020

This publication has been written and produced by ARTICLE 19 with the financial support of the European Union. Its contents are the sole responsibility of the Media Dialogue project and do not necessarily reflect the views of the European Union. ARTICLE 19 is grateful to the Media Policy Institute for comments on earlier drafts of this publication.

This work is provided under the Creative Commons Attribution-Non-Commercial- ShareAlike 3.0 licence (CC BY-NC-SA 3.0). You are free to copy, distribute and display this work and to make derivative works, provided you:

- 1) give credit to ARTICLE 19;
- 2) do not use this work for commercial purposes;
- 3) distribute any works derived from this publication under a licence identical to this one.

To access the full legal text of this licence, please visit: <https://creativecommons.org/licenses/by-sa/3.0/legalcode>

ARTICLE 19 would appreciate receiving a copy of any materials in which information from this report is used.



This project is funded by
the European Union



MEDIA
DIALOGUE

This publication has been produced with the financial support of the European Union. Its contents are the sole responsibility of ARTICLE 19 and the Media Dialogue project and do not necessarily reflect the views of the European Union.

Table of Contents

Freedom of expression and elections in Kyrgyzstan	4
Key international standards on election and freedom of expression	4
Legislation restricting freedom of expression	6
Recommendations	7
‘Hate speech,’ misinformation, and disinformation	7
Recommendations	9
Freedom of the media and elections	9
Recommendations	10
Freedom of expression online and elections	11
Recommendations	11
Transparency of campaign financing	12
Recommendations	12
“Transitional” Annex	13
State responsibility to respect, protect and fulfil human rights	13
Freedom of expression and media in periods of political change	14
Right to protest	14
Online safety of female journalists, activists and lawyers	15
Recommendations	15
About ARTICLE 19	17

Freedom of expression and elections in Kyrgyzstan

Kyrgyzstan's parliamentary elections on 4 October 2020 and their aftermath highlighted an urgent need to ensure that freedom of expression and information is upheld and that freedom of the media is protected. Kyrgyzstan should immediately bring its media and speech related legislation into full compliance with international freedom of expression standards and abstain from introducing illegitimate restrictions as for example, in the proposed Misinformation Bill. It should cease harassment of journalists and create an enabling environment for legacy and online media to flourish. ARTICLE 19 also reiterates the urgent need to allow freedom of the media in election periods in order to ensure that political parties and civil society groups are able to freely participate in the electoral process.

Free and fair elections and media freedom go hand in hand and are the foundations of democracy. Elections are not only about casting a vote in fair conditions, but about ensuring citizens are informed about candidates, parties, and their political platforms and candidates being able to communicate their messages and policies to the electorate. Digital technologies have provoked huge changes to both elections and freedom of expression over the past few decades and it is important that States respect and protect online expression in the context of elections.

Hence, in this briefing, ARTICLE 19 first outlines the key international freedom of expression standards applicable to elections. It then highlights key concerns in legal and policy framework and its application in Kyrgyzstan in the period prior to the October 2020 election. It does not attempt to comprehensively chronicle all developments relevant to freedom of expression and information in the country; instead, our objective is to identify key trends and make recommendations going forward from a freedom of expression perspective. We hope that this will provide an informed contribution to the debate in Kyrgyzstan, that is grappling with significant legal and political challenges, and assist future reforms in this area.

Key international standards on election and freedom of expression

The role of freedom of expression in realising the right to take part in public affairs is also well-established. The Human Rights Committee, in its [General Comment No. 25](#), has emphasised that freedom of expression is

[E]ssential ... for the effective exercise of the right ...and must be fully protected. Positive measures should be taken to overcome specific difficulties, such as illiteracy, language barriers, poverty ... Information and materials about voting should be available in minority languages. Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have adequate information on which to base their choice.

The international standards and jurisprudence make it clear that governments have a negative obligation not to interfere with the imparting of information by the media or by willing speakers. Any restriction must restrict the freedom of expression as little as possible. The International Covenant on Civil and Political Rights (ICCPR) sets forth a three-part test for determining the legitimacy of restrictions on freedom of expression:

- Any restriction must be provided by law. Vague or broadly defined restrictions do not satisfy this requirement;
- It must serve one of the legitimate purposes expressly enumerated in the ICCPR; and
- It must be necessary in a democratic society.

Accordingly, governments may prevent the dissemination of election coverage only where such dissemination would be certain to lead to a disruption of public order or a violation of some other interest that the government is legitimately entitled to protect. A strong argument can be made that government-controlled media, particularly where they control the only or main channels in a country, may not refuse to broadcast political debate save in limited circumstances.

Principles on transparent, open and pluralistic electoral campaign in the media have been also outlined in several reports of the freedom of expression mandates. For instance, in April 2020, the UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression, launched their [2020 Joint Declaration on freedom of expression and elections in the digital age](#), which sets out important recommendations for States, tech companies, media outlets and other stakeholders. The recommendations include:

- States should put in place a regulatory and institutional framework that promotes a free, independent and diverse media, in both the legacy and digital media sectors, which is able to provide voters with access to comprehensive, accurate and reliable information about parties, candidates and the wider electoral process.
- State actors should ensure that the media enjoys robust access to sources of official information and to candidates for public office, and does not face undue barriers to their ability to disseminate such information and ideas, including during the public health crisis caused by the COVID-19 pandemic.
- The media should be exempted from liability during election periods for disseminating statements made directly by parties or candidates unless the statements have specifically been held to be unlawful by an independent and impartial court or regulatory body, or the statements constitute incitement to violence and the media outlet had a genuine opportunity to prevent their dissemination.
- Any rules on election spending which are designed to create a level electoral playing field should be applicable to legacy and digital media, taking into account their differences, including rules about transparency of political advertising.

- States should consider supporting positive measures to address online disinformation, such as the promotion of independent fact-checking mechanisms and public education campaigns, while avoiding the adoption of rules criminalising disinformation.
- Digital media and platforms should make a reasonable effort to adopt measures that make it possible for users to access a diversity of political views and perspectives. In particular, they should make sure that automated tools, such as algorithmic ranking, do not, whether intentionally or unintentionally, unduly hinder access to election related content and the availability of a diversity of viewpoints to users.
- Digital actors should, as relevant, be transparent about the use of and any practical impact of automated tools they use (albeit not necessarily the specific coding by which those tools operate), including how those tools affect data harvesting, targeted advertising, and the sharing, ranking and/or removal of content, especially election-related content.
- Parties, politicians and candidates should refrain from limiting the ability of media and journalists to access any public communications they make related to elections.

From a comparative perspective, the most detailed statements of participatory right are to be found in documents of the OSCE. As an example, in the [Copenhagen Document of June 1990](#), the OSCE participating States – including Kyrgyzstan – committed themselves to “ensure that the will of the people serves as the basis of the authority of government” by, among other means, ensuring “that no legal or administrative obstacle stands in the way of unimpeded access to media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.” Specific rules relating to election campaigns have been set out in recommendations by civil society, [including ARTICLE 19](#). While the OSCE and ARTICLE 19’s documents lack the formal status of international law, they are widely regarded as authoritative interpretations of international standards in this area.

Legislation restricting freedom of expression

Kyrgyzstan legislation contains several provisions that have been used to criminalise or restrict the right to freedom of expression. In particular:

- The [Law on Guarantees for Activity of the President of the Kyrgyz Republic](#) allows the Prosecutor General of the Kyrgyz Republic to initiate legal action under the civil law to protect the “honour and dignity” of the President of the Kyrgyz Republic, as well as to protect former Presidents from being “discredited”. Suits brought under these provisions have resulted in wildly excessive awards for moral damages, with serious financial consequences for those attempting to defend against claims. The breadth of this law, and the special status it confers on the reputations of the current and former Presidents, has a chilling effect on freedom of expression. In October 2018, the Constitutional Chamber of Kyrgyzstan decided that the Prosecutor General must obtain authorisation from the President for the initiation of any suit.

- The 2019 Criminal Code of Kyrgyzstan retains broad ‘incitement’ offence in Article 313. Although international standards require States to prohibit incitement to violence, discrimination and hostility, the breadth of the incitement provisions in Article 313, as well as the increased aggravated sentences, allows for the criminalisation of expression that should be protected under international human rights law. In particular, the concept of “humiliation of national dignity” seeks to protect the reputational interests of the State, which is not a rights holder. It is not legitimate to limit the right to freedom of expression to protect the nation from criticism. Moreover, Article 313 of the Criminal Code has been abusively applied not to protect individuals from incitement to hostility, discrimination or violence based on who they are, but instead to protect the government from criticism that it does not like, from journalists and from other social media users, and to censor open debate and discussion on taboo subjects, such as interethnic conflicts.
- Kyrgyzstan’s [Law on Countering Extremist Activities](#) (2005, amended in August 2016) is drafted in such vague language that it allows for disproportionate restrictions to be imposed on freedom of expression, freedom of association and assembly and freedom of religion. These extremely vaguely defined offences are based on broad definitions of key terms, and are in breach of the legality requirement under international human rights law.

ARTICLE 19, together with the local civil society, have been [calling for the reform](#) of these laws. Ahead of the 2020 elections, this call was even more urgent. At a minimum, in the lead-up to the 2020 election, the government should refrain from prosecuting individuals under the restrictive legal provisions identified here. The Government should also prioritise the repeal or reform of the provisions identified in this briefing paper in consultation with civil society.

Recommendations:

- The restrictive legislation – in particular the Law on Countering Extremist Activities - should be repealed in their entirety. Article 313 of the Criminal Code should be amended.
- The Government should drop charges against and release from custody all those charged or imprisoned merely for exercising their right to freedom of expression and cease all criminal proceedings on these grounds.

‘Hate speech,’ misinformation, and disinformation

Same as many States around the world, Kyrgyzstan is increasingly grappling with the effects of ‘hate speech’, misinformation, and disinformation in the context of elections.

As noted above, Kyrgyzstan’s legislation – in particular provisions of the Criminal Code on incitement and the Law on Extremist Activity, are vague and overbroad and do not meet the international freedom of expression standards. The country’s enforcement of restrictive legislation raises concerns that these laws are likely to exacerbate human rights challenges. Restrictive legislation has been regularly used to arrest and prosecute journalists, human rights defenders, and critics of the government.

ARTICLE 19 notes that while there is no definition of 'hate speech' in international law, the term should be understood to encompass any expression of discriminatory hate towards people on the basis of a protected characteristic, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, indigenous origin or identity, disability, migrant or refugee status, sexual orientation, gender identity or intersex status, or other protected characteristic recognised under international human rights law. 'Hate speech' should not be confused with speech critical of the government, political parties, or politicians.

From a free speech perspective, States regularly exploit the label 'hate speech' to discredit, or even prohibit, expression that is critical of the State, the symbols of the State (such as flags and emblems), or powerholders. However, international standards do not permit restrictions on the right to freedom of expression to protect 'the State' or its symbols from insult or criticism. These entities cannot be the target of 'hate speech' because they are not people and are therefore not rights-holders. Status as a head of State or other public official is not a 'protected characteristic' on which discrimination claims, or the characterisation of 'hate speech', can be based. Indeed, public officials are legitimate targets of criticism and political opposition and should display a higher degree of tolerance toward criticism than other persons.

Similarly, 'misinformation' or 'disinformation' are also terms that are not defined under international human rights law. Importantly, protecting persons from false information, 'misinformation' or 'disinformation' is not, as such, a legitimate aim for justifying restrictions on the right to freedom of expression under Article 19(3) of the ICCPR. As four special mandates on freedom of expression cautioned in their [2017 Joint Declaration](#), these labels are increasingly being used by persons in positions of power to denigrate, intimidate the media and independent voices, increasing the risk of journalists to threats of violence, and undermining public trust in the media. An important point of principle remains that "the human right to impart information is not limited to 'correct statements', [and] that the right also protects information and ideas that may shock, offend or disturb." They have therefore made clear that "general prohibitions on the dissemination of information based on vague and ambiguous ideas, including 'false news' or 'non-objective information', are incompatible with international standards for restrictions on freedom of expression."

Despite the aforesaid international standards, the Bill on Manipulating Information was adopted in June 2020 in the context of the COVID-19 pandemic. It was not signed by the President into an acting law though and was shortly returned to the Parliament for improvement. A renewed attempt to include this Bill into the Parliament agenda was made in December. The Bill allegedly aims to address false and inaccurate information spreading online. Additionally, during the State of Emergency, Article 82-2 was introduced into the Code of Violations which provides for liability for the dissemination of false information during the state of emergency. These laws contain a number of vague and overbroad terms. The Bill on Manipulating Information proposes to give the authorities the power to block access to Internet sites and shut down social media accounts without any due process as well as requires internet service providers to store user data, including photos, audio and video for six months and share that data with government agencies upon request. The misinformation legislation fails to comply with international freedom of expression standards as protection of freedom of expression is not limited to truthful statements or information. Furthermore, official responses to misinformation that rely heavily on censorship and criminal or substantial administrative sanction raise concerns about the element of proportionality and necessity in a democratic society.

Recommendations:

- Instead of vague and overbroad legislation to restrict 'hate speech' and 'misinformation'/'disinformation' and their arbitrary implementation, Kyrgyzstan should develop a national action plan containing positive policy measures to combat 'hate speech' and intolerance in line with Human Rights Council Resolution 16/18 and the Rabat Plan of Action. Such measures could include support for education, interfaith dialogue, diversity of media, and counter-messaging initiatives.
- Similarly, responses to misinformation and disinformation should be carefully crafted to respect the right to freedom of expression. Parliament should abstain from adopting draft legislation on mis- or disinformation which disproportionately and unnecessarily limits the free flow of information. Other measures, such as positively promoting voter education materials, advertisement transparency, media literacy initiatives and diverse, independent media sources to ensure plurality of political views can be powerful tools in countering the effects of misinformation and disinformation campaigns.
- During the election period, the state authorities, including the Central Election Commission should utilise positive policy measures in any efforts to combat misinformation and disinformation.

Freedom of the media and elections

The media is particularly important in time of elections. Candidates for political office must be able to get their political message across freely and the media provides them with a crucially important platform for doing so. In addition, the media plays an important role in reporting and analysing the policies and backgrounds of political candidates. If during an election, a large number of political candidates cannot make their voices heard or the editorial independence of the media is interfered with, democratic elections have failed.

From the point of international freedom of expression and information standards, four issues are central to the election processes:

- *First*, the media outlets should be autonomous. In particular, they should remain free from political or corporate interferences.
- *Second*, the media should be pluralistic and diverse in content, views and formats.
- *Third*, voters and parties and candidates should not be prevented from imparting, seeking and receiving information and ideas relevant to their participation in elections.
- *Fourth*, in view of the state duty to organise free elections, the legislation should provide mechanisms allowing access of election candidates to the media.

In the early stages of the State of Emergency, introduced in Kyrgyzstan as a result of the COVID-19 global pandemic, [independent journalists were not issued accreditation](#). In

addition, during the initial period of a strictly enforced curfew, [independent journalists were not excluded from the movement restrictions](#) placed on the remainder of the population. They were therefore unable to report fully on the pandemic, further impeding the population of Kyrgyzstan's access to information. Even prior to the pandemic, independent journalists and media who have been critical of the government have reported that they or their media organisations have been refused accreditation or put on 'black lists' of ministries and state departments, who subsequently refuse their calls and omit them from mailing lists with invites to relevant events. It is perceived that only 'friendly' media receive accreditation for certain high-profile briefings.

Further, in the last months, journalists in Kyrgyzstan have been facing increasing restrictions on their reporting activities. For instance:

- In November 2019 in Bishkek, the administrator of the 'Bespredel' online group was detained. Avtandil Zhorobekov was arrested in Bishkek, under aforementioned Article 313 of the Criminal Code, for fomenting interregional hatred and was taken to the detention centre of the State National Security Committee. It was alleged that he was distributing among users of social networks publications containing "false and provocative information that discredited the current government and called for disobedience and organisation of mass acts of protest, which divided users into rival groups, caused mutual insulting comments, which eventually led to a sense of hatred among people in the form of inciting inter-regional hatred."
- In January 2020, journalist Bolot Temirov, chief editor of the independent news website *Factcheck*, which has covered allegations of official corruption, was attacked on the way to work. He was briefly hospitalised with injuries.
- On March 8, 2020, journalists of TV Channel "Apriel" ("April") and online media Kloop [were attacked during the forced dispersal of the peaceful protest](#) against violence against women.

ARTICLE 19 recalls that governments have a general obligation to protect journalists and enable the media to carry out their work. For these reasons and owing to the particular importance during election campaigns of protecting the security of the mass media, including those that publish controversial views, governments must be especially vigilant during election campaigns to condemn, investigate and punish attacks against media personnel and property.

Recommendations:

- The Government should refrain from adopting restrictions on media freedom and measures limiting the coverage of journalists during the elections.
- The Government should ensure a safe and enabling environment for journalists and the media. In particular, it should ensure accreditation procedures are transparent and independently administered, and not applied to restrict reporting on public institutions.

- State media outlets should inform the public about matters relevant to the elections, including to provide voter education, be balanced and impartial in their election reporting and in their news and current affairs programmes. They should not refuse to transmit an election broadcast unless it constitutes a clear and direct incitement to violence or hatred. They should also grant parties and candidates airtime for direct access programmes on a fair and non-discriminatory basis.

Freedom of expression online and elections

ARTICLE 19, together with local partners, have previously raised concerns about increasing restrictions on freedom of expression online. In particular, website blocking to deliberately obstruct the free flow of information online has become more widespread. This often occurs without a court order, through processes that are opaque. The lack of transparency around blocking, and the legal basis on which blocking orders are made, makes it very difficult to challenge decisions and restore their websites or content. The perceived risks of arbitrary blocking are encouraging significant self-censorship.

Independent media outlets have been particularly targeted: the government has blocked the entire websites of several outlets, justifying their actions by alleging the websites contain “extremist” or “terrorist” content, or content that “incites hatred” (see above). Broad definitions provided for “extremist materials” means that websites can be blocked where they do not contain content that incites terrorist acts, violence, or discrimination. Even where such content does exist, the use of website blocking, without proper judicial oversight, clearly violates the right to freedom of expression.

For example, in July 2020, international petition [site change.org was unofficially blocked in Kyrgyzstan](#), allegedly because of the petition posted there by Kyrgyzstan citizens calling for the resignation of the President due to inaction in relation to countering Coronavirus pandemic. [On 19 September 2020, internet media site “Apriel” \(“April”\) reported several DDOS attacks](#). The editorial office of the media site claimed that the attacks originated from the presidential administration. Previously, at the end of 2019, independent journalists and media were targeted by the hackers supposedly as a result of their anti-corruption reporting and [investigations about Matraimov family](#).

Kyrgyzstan does not have a history of blanket internet shutdowns around elections unlike some of its neighbours. However, DDOS attacks and website blocks are expected to be an issue in the upcoming elections. A number of independent news outlets’ websites have previously been targeted by DDOS attacks that are presumed to be linked to the authorities.

As for the social media, increasingly, social media platforms are engaging with governments in advance of the elections. It is not clear whether this has been the case in Kyrgyzstan as there has been no transparency over any agreements between platforms and public authorities.

Recommendations:

- The Government should ensure that any restrictions of online speech strictly comply with international human rights standards relating to freedom of expression. It

should immediately cease any extrajudicial interference with internet access as it constitutes a violation of international standards.

- The Government should be fully transparent in its engagements with social media platforms, including by publishing any agreements reached with platforms, and should ensure the opportunity for the participation of key stakeholders, including civil society. Equally, social media platforms should be fully transparent in their engagements with the government, including by publishing relevant information in their transparency reports.
- Social media platforms should push back against government requests that violate human rights.

Transparency of campaign financing

In their 2020 Joint Declaration, the freedom of expression mandates stressed the urgent need for robust rules and systems requiring transparency of parties and candidates in relation to media spending on elections.

Recommendations:

- The legal framework on political and campaign finance should be improved to ensure greater transparency. Parties and candidates should be required to be transparent in a timely fashion including to the media; they should be required to submit financial reports on an annual basis, regarding their spending on elections and, in particular, spending on legacy and digital media, and other digital communications efforts.
- Campaign finance regulations should provide for an obligation to disclose sources of campaign funding before election day, publishing detailed final reports on campaign incomes and expenditures and results of their audit, and envisage a range of dissuasive and proportionate sanctions for violations of campaign finance rules.

“Transitional” Annex

Following contested parliamentary elections on 4 October 2020, Kyrgyzstan has experienced a continuous political [turmoil](#). The new parliamentary elections have been indefinitely postponed and instead, presidential elections combined with the proposed constitutional referendum were scheduled for 10 January 2021. Widely questioned legitimacy of the constitutional reform process and the proposed draft text of the constitutional amendments, which distort check-and-balances system and potentially endanger freedom of expression and media freedom, raise reasonable concerns among [local](#) and [international experts](#).

The ongoing developments in the country accentuated several important issues not initially covered by ARTICLE 19’s Briefing on freedom of expression and elections in Kyrgyzstan. Thus, in consultation with its local partners, ARTICLE 19 elaborated this Annex to supplement the original briefing and to discuss, inter alia, the media’s role in political transition, certain aspects of the right to protest and online safety of female journalists as well as to provide additional recommendations to the relevant stakeholders in Kyrgyzstan.

State responsibility to respect, protect and fulfil human rights

The responsibility to ensure protection and fulfilment of human rights, including freedom of expression and access to information, ultimately rests with the State, also during the periods of political change and/or unrest. In particular:

- [Article 7 of Articles on Responsibility of States for Internationally Wrongful Acts](#) stipulates that the State is still responsible for the actions of its institutions/agents, exercised in their official capacity, even if they act beyond their authority e.g. if there are reasons to suggest that they exceeded their authority.
- In [General Comment No 31](#), the UN Human Rights Committee further established that human rights will only be fully discharged if individuals are protected by the State not just against violations committed by its agents but also against acts committed by private persons or entities. States could be held accountable for human rights violations if they permit or fail to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress harm caused by private persons or entities. In practice, these provisions of international law mean that the State is liable for human rights violations even if its organs acted outside their authority and/or if such violations were committed by the private actors and the State failed to prevent their occurrence and/or remedy negative consequences.

Freedom of expression and media in periods of political change

Freedom of expression is widely recognised as a cornerstone of democracy. Without free speech, democracy will be deprived of its essential elements of transparency and accountability of public administration. The ability to engage openly and without fear in a public debate is of even heightened importance during the periods of political change and complex transition. Any social turbulence is caused by certain public grievances which could not be properly addressed without free and honest public discussion. It is precisely the role of the independent media to give a space to such discussions, and active citizens should be able to participate in it without hindrance. When society has to take political decisions, which can shape its development for the years ahead, it should be equipped with quality information to enable conscious and confident collective choice. Any illegitimate impediment to the free flow of information and the work of professional journalists in times of political crisis and/or transition, even if such transition is accompanied by public protests, will not only infringe on freedom of expression and freedom of the media but will undermine people's ability to meaningfully engage in the political processes and exercise due control over their own future.

Right to protest

ARTICLE 19 believes that protests play a crucial role in the civil, political, economic, social and cultural life of our societies. The right to protest involves the exercise of numerous fundamental human rights and is essential for securing all human rights. At times, the right to protest is also instrumental in safeguarding people's aspirations for democratic and fair governance. The guidance on how to respect, fulfil and protect the right to protest in Kyrgyzstan can be found in [General Comment No 37 of the UN Human Rights Committee on the right of peaceful assembly](#) as well as in ARTICLE 19's [Principles on the protection of human rights in protests](#).

Everyone should be allowed to use digital technologies in protest. Access to digital technologies, including their use in protests, should be promoted and facilitated. Any restriction on the use of digital technologies, including the Internet, social media and mobile telephony, in protest should be in line with the requirements of legality, legitimacy, necessity and proportionality, and subject to strong procedural safeguards. Governments [should not disrupt access to information online](#). Though Kyrgyzstan did not resort to serious Internet shutdowns in this period, certain connection irregularities were reported around the election day in October and subsequent days of protests. [International petition website change.org remains blocked](#) in the country since mid-July 2020 based on the dubious charges of "extremism": the respective decision of the local court is pending appeal at the Supreme Court of Kyrgyz Republic.

ARTICLE 19 is concerned that in the wake of the contested parliamentary elections several media and individual journalists [reported attacks and/or verbal harassment associated with their coverage of election-related protests and protesters](#). In most of the cases, such attacks were initiated by the alleged supporters of certain politicians: in particular, of the leading presidential candidate Sadyr Japarov. Law enforcement authorities failed to provide adequate protection against the attacks.

ARTICLE 19 points out that information relating to protests should not be suppressed or unduly restricted. Those in power should refrain from imposing measures that regulate or limit the free circulation of information about protests via broadcast and print media, the Internet and other communications platforms. Any limitations on freedom of information should meet the requirements of the three-partite test e.g. be prescribed by law, adopted in pursue of a legitimate aim, be necessary and proportionate. Journalists in Kyrgyzstan should have unhindered access to all venues, political convocations and public gatherings where the future development path of the country is being decided upon.

Protests could be and should be monitored and reported about by the media professionals and civic activists. Individuals documenting police actions and human rights violations during protests should not be specifically targeted because of covering and reporting on protests. Those responsible for the wilful attempts to confiscate, damage or break related equipment, printed material, footage, audio, visual and other recordings should be held accountable. Safety of journalists, media workers and observers should be assured.

Online safety of female journalists, activists and lawyers

Female journalists have different experiences, face different challenges and risks than those of their male colleagues. They are often attacked not only because of their activism or political position but also because of their gender which leads to aggravated security concerns for them both offline and online. The online environment is especially conducive to massive harassment and threats against women journalists and activists; sexist stereotypes are flourishing on the Internet. At the same time, as noted in the [OSCE #SOFJO Resource Guide](#), the safety of women journalists online directly affects the quality of our democracies and the right of society to access a plurality of information. When female voices are aggressively suppressed, society is not fairly represented in any public debate, and important perspectives will be missing.

ARTICLE 19 notes with concern that online attacks against journalists have intensified in Kyrgyzstan since the publication of the large-scale corruption investigations in 2019. [In late 2020, online harassment started targeting predominantly female journalists, activists and even lawyers](#) for their pro-active position regarding the contested parliamentary elections, dubious legitimacy of the subsequent political decisions and the quality of the proposed constitutional amendments. Many political actors either ignore the problem of online harassment or even encourage it through their public statements and communication with their supporters.

Recommendations:

- All political actors in Kyrgyzstan should unequivocally recognise both the State's and their own responsibility for the fulfilment and protection of human rights in the country; political turbulence, disputed legitimacy of public authorities or human rights violations committed by the private parties do not annul the State's ultimate responsibility to ensure human rights.
- All political actors and public authorities in Kyrgyzstan should acknowledge the crucial role of freedom of expression and freedom of the media in democratic

development, especially in times of political turbulence; all public and private actors and institutions should refrain from impeding the work of independent media and journalists and/or their coverage of the ongoing political crisis; political candidates and political parties should pro-actively engage with their followers and supporters to prevent attacks against journalists and media.

- Right to protest should be duly protected in Kyrgyzstan including the use of digital technologies in protests, free flow of information and reporting about protests.
- All attacks against journalists and media committed in the course of the protests should be properly investigated and perpetrators should be held accountable.
- Special attention of the competent public authorities and relevant private actors should be paid to ensuring the safety of female journalists, activists and lawyers both online and offline; political candidates and political parties should adopt zero tolerance policies towards harassment and persecution of female journalists, activists and lawyers.

About ARTICLE 19

ARTICLE 19 advocates for the development of progressive standards on freedom of expression and freedom of information at the international and regional levels, and their implementation in domestic legal systems. The Law Programme has produced a number of standard-setting publications which outline international and comparative law and best practice in areas such as defamation law, access to information and broadcast regulation.

On the basis of these publications and ARTICLE 19's overall legal expertise, the organisation publishes a number of legal analyses each year, comments on legislative proposals as well as existing laws that affect the right to freedom of expression. This analytical work, carried out since 1998 as a means of supporting positive law reform efforts worldwide, frequently leads to substantial improvements in proposed or existing domestic legislation. All of our analyses are available at <http://www.article19.org/resources.php/legal>.

If you would like to discuss this analysis further, or if you have a matter you would like to bring to the attention of the ARTICLE 19 Law and Policy team, you can contact us by e-mail at legal@article19.org. For more information about the ARTICLE 19's work in Europe and Central Asia, please contact Sarah Clarke, Head of ARTICLE 19 Europe and Central Asia team, at sarahclarke@article19.org.

article19.org