

Kyrgyzstan

	2014	2015		
Internet Freedom Status	Partly Free	Partly Free	Population:	5.8 million
Obstacles to Access (0-25)	12	11	Internet Penetration 2014:	28 percent
Limits on Content (0-35)	9	8	Social Media/ICT Apps Blocked:	No
Violations of User Rights (0-40)	13	16	Political/Social Content Blocked:	Yes
TOTAL* (0-100)	34	35	Bloggers/ICT Users Arrested:	No
			Press Freedom 2015 Status:	Not Free

* 0=most free, 100=least free

Key Developments: June 2014 – May 2015

- On June 30, 2014, the government adopted a resolution with new instructions for internet service providers (ISPs) and mobile service providers to update their systems to the latest version of System for Operational-Investigative (SORM) technology. These instructions included requirements for service providers to store the data of their subscribers for up to three years and allow the authorities direct, real-time access to communications networks (see **Surveillance, Privacy, and Anonymity**).
- On October 29, 2014, the first criminal proceeding based on the law prohibiting the “knowingly false messages about the commission of crimes” was initiated against journalist Dayirbek Orunbekov, for an online article accusing the transitional government in 2010 with responsibility for the victims of ethnic violence. The court dismissed the case based on a lack of evidence; however, the prosecutor general subsequently filed a new charge against Orunbekov for defamation (see **Prosecutions and Detentions for Online Activities**).

Introduction

The environment for internet freedom in Kyrgyzstan has improved in recent years, with fewer restrictions since the overthrow of President Kurmanbek Bakiev's regime in 2010. Despite improvements, internet access remains limited primarily to urban areas, and a number of legal and technical restrictions on online content continue to inhibit internet users. Additionally, increasing requirements for ISPs to implement surveillance technology and a rise in the severity of prosecutions for online content have counteracted improvements in access, causing a slight decline in internet freedom over the past year.

In May 2014, the president signed an amendment to the criminal code introducing criminal liability for distributing information that includes deliberately false accusations of committing a crime, leading to increased concerns about the potential impact of this law on self-censorship in the media. Legislation was passed in February 2014 requiring the immediate registration of SIM cards as a way of legally regulating the relationships between consumers and service providers; however, this regulation also limits the ability of citizens to use information and communications technologies (ICTs) anonymously.

Obstacles to Access

Internet access in Kyrgyzstan is relatively limited, with an internet penetration rate of just 28 percent, although the introduction of unlimited plans by mobile operators and the development of 4G services is improving access. There is still a digital divide between urban and rural areas, as telecommunication companies have fewer incentives to expand services and infrastructure outside of the main cities. The state-owned telecommunications company, KyrgyzTelecom, controls the majority of the market for internet access, with a market share of 78 percent.

Availability and Ease of Access

Access to the internet in Kyrgyzstan continues to expand, though the percentage of the population with internet access is still low by global standards. Internet penetration rates reported by the International Telecommunication Union (ITU), Kyrgyzstan's State Communication Agency (SCA), and independent research groups vary. According to the ITU, the internet penetration rate in 2014 reached 28 percent, compared to 23 percent in 2013 and just 16 percent in 2009.¹ In contrast, the SCA reported that in 2014 there were over four million active internet users in Kyrgyzstan, or approximately 70 percent of population.²

Similar to the ITU report, research conducted in a USAID-funded survey in 2013 by the M-Vector Consulting Agency indicated that about 28 percent of the population was using the internet, with 64 percent of users in urban areas and 36 percent of users in rural areas.³ Internet users in Bishkek account for 41 percent of all users, while in four of the seven regions, users account for less than 5 percent the total. The majority of respondents—77 percent—mentioned using mobile internet, while

1 International Telecommunication Union (ITU), "Percentage of individuals using the Internet," "Explore Key ICT Statistics," 2009, 2013, and 2014, <http://bit.ly/1eKDWOQ>.

2 Отчет агентства связи за 2014 год, [Annual report of SCA for 2014] http://nas.gov.kg/images/ot4et_2014.docx.

3 M-vector Consulting Agency, Исследование поведения и восприятия медиа аудитории 2012 г. (3-я волна) [Media Consumption & Consumer Perceptions Baseline Survey 2012 (2nd Wave)] Kyrgyzstan, March 2013, <http://bit.ly/1jkOXQg>;

29 percent reported using the internet at home. Cybercafes have become less popular due to the growing popularity of mobile internet and the spread of broadband infrastructure.⁴ The average connection speed in 2014 was 2.7 Mbps.⁵

Fixed-broadband access, via either fiber-optic cables or DSL, is accessible mainly in Bishkek, with broadband in the provinces provided only by the state-run internet service provider KyrgyzTelecom. Broadband speeds range from 24 Mbps for DSL to 100 Mbps for the FTTx (fiber to the x) network, which is well-developed in Bishkek. The government has launched a CDMA 450 mobile telephone and broadband network to expand telecom infrastructure into more rural areas, though it has only become partially active. CDMA 450 phones have become popular in rural areas with more than 30,000 subscribers as of November 2011.

Mobile phone penetration is significantly higher than internet penetration in Kyrgyzstan, with a penetration rate of nearly 128 percent as of the end of 2014, according to the SCA (ITU statistics report a mobile phone penetration rate of 134 percent for 2014).⁶ Mobile phone companies claim that their networks cover 90 percent of the populated territory in the country, thus extending the possibility of internet use for most people as mobile web access expands. At the end of 2010, Beeline (one of the largest mobile phone carriers) launched a 3G network that currently covers the entire country. In January 2012, another large firm, Megacom, launched its own 3G network in Bishkek, which by the end of 2013 reportedly covered more than 50 percent of the populated territory of Kyrgyzstan.⁷ Saima Telecom has launched a 4G network covering Bishkek and some suburbs. In May 2014, GSM operator NurTelecom (under the brand O!) launched a 4G LTE network covering Bishkek and some surrounding areas,⁸ while in April 2015, "Megaline," one of the biggest FTTH ISPs, launched an LTE network in test mode.

In recent years, the price for internet has decreased and has become more affordable for much of the population, though primarily in the capital where the infrastructure is well-developed and there is greater competition among providers. Prices for 3 Mbps access (the minimal bandwidth offered by many operators) in the capital range from US\$15 to \$45 per month. The maximum speed available for many customers is 10 Mbps, at a price of about US\$70 per month, though not all operators provide access at such speeds. KyrgyzTelecom traditionally has the highest rates for internet access and is the only provider available in most rural areas. An internet connection of 128 Kbps for rural inhabitants in some regions cost around US\$14 per month in 2015. Nevertheless, in February 2015, KyrgyzTelecom increased the minimum bandwidth up to 512 kbps without increasing the price. At the same time, KyrgyzTelecom has deployed 52 Wi-Fi hotspots in 16 different locations throughout Kyrgyzstan with free access up to 256 Kbps.

The development of mobile networks provides an alternative to fixed broadband access. The cheapest unlimited data plan at Beeline provides 4 GB of data per month at maximum speeds of 28.8 Mbps, with tariffs of US\$4 per GB after reaching the data threshold, and with free access to the

4 M-vector Consulting Agency, *Исследование поведения и восприятия медиа аудитории 2012 г. (3-я волна)* [Media Consumption & Consumer Perceptions Baseline Survey 2012 (2nd Wave)].

5 Akamai, *State of the Internet: Q 4, 2014 Report*, <http://akamai.me/1OcG9aE>.

6 ITU, "Mobile-cellular subscriptions per 100 inhabitants," "Explore Key ICT Statistics," accessed August 2014, <http://bit.ly/1eKDWOQ>.

7 MegaCom, "продемонстрировал уверенный рост зоны покрытия сети 3,75G в 2013 году," [Megacom demonstrated steady growth of 3.75 network coverage in 2013] press release, January 16, 2014, <http://megacom.kg/rus/press/news/3052.html>

8 O!, "Мобильный оператор O! первым из GSM-операторов Кыргызстана открывает возможность использования технологии передачи данных 4G LTE," [Mobile operator O! Is the first of GSM operators in Kyrgyzstan opens an opportunity to use 4G LTE data transfer technology] news release, May 8, 2014, <http://bit.ly/1Oduu1l>.

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social network platforms Facebook and Odnoklassniki. This plan costs around US\$8 per month. Megacom offers similar options, with monthly 2 GB packages costing around US\$10. By comparison, in 2015 the average monthly wage was KGS 12,159 (US\$195).⁹ In May 2014, the third GSM operator, NurTelecom (operating under the O! brand), became the first mobile operator to launch a 4G network, with speeds up to 150 Mbps.¹⁰

Restrictions on Connectivity

ISPs in Kyrgyzstan are not required to use government-owned channels to connect to the international internet and can establish their own. In 2010, the state-owned ISP KyrgyzTelecom completed the construction of a fiber-optic cable connection to China, but it has yet to begin functioning as of 2015.¹¹ Currently, three of Kyrgyzstan's four first-tier ISPs are linked to the international internet via Kazakhstan and its state-run provider KazakhTelecom; the fourth connects through Russia.¹² In the past, the blogging platform LiveJournal, which was blocked in Kazakhstan, was also accidentally blocked for some internet users in Kyrgyzstan, though as of 2015 this problem appears to have been resolved. The government of Kyrgyzstan does not currently place restrictions on any social media platforms or communication applications.

Fixed-line internet service providers impose different fees for accessing domestic versus international content. All fixed-line operators charge about 10 times less in fees (or do not charge fees at all) for domestic traffic compared to international traffic, due to connections through the local IXP, funded by Soros Foundation in 2000 and currently maintained and owned by Association of Communications Operators, which facilitates the movement of traffic among domestic ISPs. Mobile phone operators do not make this distinction in their data plans and charge the same amount for accessing information, regardless of where it is hosted.

ICT Market

Kyrgyzstan's telecommunications sector is relatively liberalized and competitive compared to that of other countries in the region; however, the state-owned KyrgyzTelecom is still the largest ISP with a market share of about 78 percent. The other three first-tier ISPs (Elcat, Megaline, and Saima Telecom) are privately owned. The largest among them is Megaline, which provides broadband service in Bishkek, the capital city.

There are seven mobile phone operators providing voice and data services via a variety of technical standards. The two largest competitors, with nearly equal market share, are Megacom and Beeline. Megacom was nationalized in 2010 amid the political upheaval. There are 12 companies with fre-

9 National Statistical Committee of the Kyrgyz Republic (Stat KG), "Основные показатели социально-экономического развития Кыргызской Республики в январе-мае 2015г.," [Main indicators of social-economic development of Kyrgyz Republic in Jan-May 2015] June 8, 2015, <http://bit.ly/1GEBkjG>.

10 O!, "Мобильный оператор O! первым из GSM-операторов Кыргызстана открывает возможность использования технологии передачи данных 4G LTE," [Mobile operator O! First of GSM operators of Kyrgyzstan opens a possibility of using 4G LTE technology of data transmission].

11 Kyrgyztelecom, *Годовой отчет 2010, Кыргызтелеком*, [Annual report 2010, Kyrgyztelecom] accessed September 17, 2012, <http://bit.ly/1WXWIK6>.

12 "Internet Service Providers in Kyrgyzstan," *Tilekus* (blog), updated January 6, 2012, accessed July 24, 2013, <http://bit.ly/1jkPHEU>.

quencies for deploying 4G networks, but only four of them have begun to use the frequencies for this purpose due to the large investment required in the first stage of deployment.¹³

In November 2013, the Bishkek inter-district court declared the CDMA network mobile provider Aktel (Fonex) bankrupt. Currently, a special administrator from the government is assigned to deal with the company's affairs.¹⁴ At the same time, the director of SCA stated that Aktel's liquidation will likely have very little effect on the telecommunication market, given that the subscriber base of Aktel is very low compared with other operators (about 27,000 customers). Nevertheless, the director of the Association of Communication Operators pointed out that the loss of Aktel as a mobile phone provider will affect those who need confidentiality in mobile calls, since CDMA provides higher security standards for voice calls.¹⁵

Regulatory Bodies

The main body regulating the ICT industry, including radio spectrum allocation, is the State Communication Agency (SCA), a government body with a director and 137 members. The director and two deputies are appointed by the prime minister.¹⁶ Some facets of the agency's work have been criticized, such as the inefficient and non-transparent allocation of radio frequencies and restrictions on wireless mesh networks. Another problematic issue has been the requirement that communication devices (including computers, modems, and wireless access points) be locally certified by the SCA. While this requirement is not systematically enforced, its selective application could serve as an instrument of political pressure and a pretext for authorities to seize "uncertified" property, though this has not yet occurred.

Limits on Content

Although the government has taken efforts to censor certain content on the internet, in general there are fewer restrictions placed on material that is available online. This may be because television remains by far the dominant medium through which citizens obtain information about their country, and thus censorship efforts have focused on broadcast media.¹⁷ There have been several incidents of government entities ordering the blocking or deletion of online content in the past, though there were fewer cases over the past year.

Blocking and Filtering

Many social media outlets such as YouTube, Facebook, and Twitter are freely available. In previous

13 "In Kyrgyzstan, of the 12 companies, only 4 deploying WiMax and LTE networks," GIPI, December 5, 2012, <http://bit.ly/1G1UFk1>.

14 "Фонех начали спасать от банкротства," [Fonex is started to be save from bankrupt] January 10, 2014, <http://bit.ly/1RD5tWX>.

15 Dmitriy Denisenko, "Уход Fonex ударит по избегающим прослушки абонентам," [Demise of Fonex strikes subscribers avoiding tapping their phone calls] January 13, 2014, <http://bit.ly/1LK6IF0>.

16 "Regulation on the State Telecommunication Agency under the government of Kyrgyz Republic," passed by a Resolution of the government of KR № 124, as of February 20, 2012.

17 According to the 2012 M-vector survey, TV still remains the primary source of information for 82.6 percent of the population. See, M-vector Consulting Agency, *Исследование поведения и восприятия медиа аудитории 2012 г. (3-я волна)* [Media Consumption & Consumer Perceptions Baseline Survey 2012 (2nd Wave)] Kyrgyzstan, March 2013, <http://bit.ly/1jkoXQg>.

years, content that was blocked in other countries, through which ISPs in Kyrgyzstan were connected, was also blocked for internet users in Kyrgyzstan. LiveJournal used to be blocked due to this up-stream filtering, but it is now available.

On November 24, 2014, the independent online news outlet Kloop.kg reposted a clip of a video originally published by the *DailyMail* showing children from Kazakhstan training in camps run by the so-called Islamic State.¹⁸ On the same day, the editorial staff received an email from CERT under the Ministry of Communication and Information of Kazakhstan with a request to remove this material, stating that it violates Kazakhstan's laws; Kloop.kg refused to remove the article, after which the authorities in Kazakhstan blocked the website.¹⁹ On December 10, the SCA sent a notice to all ISPs in Kyrgyzstan to block access to the article within two days.²⁰ Within five days, access to the site was blocked from the state-owned Kyrgyztelecom and two of the biggest mobile operators, Beeline and Megacom. The SCA also apparently instructed Prohost, the hosting provider for Kloop.kg, to disconnect service to the entire site if the content was not removed.²¹ The SCA stated that the order was sent following a request from the Prosecutor General's office.²² Later, however, the SCA announced that they had withdrawn the order to block the article, and the access to the site was restored.²³

On May 13, 2013, the parliament passed amendments to the law "On Counteraction to Extremist Activities," originally passed in 2005, which allow the government to order the blocking of websites hosted outside the country if the government recognizes the content as "extremist" (previous legislation for blocking extremist content was based on where the website was hosted, rather than from where it could be accessed).²⁴ These amendments gave rise to criticism from parliamentarians who noted that in order to make the amendments consistent with other legislation, online content should be included in the category of mass media, a proposal which parliamentarians have raised a number of times and which would give the government greater control over online content.²⁵ At the same time, these amendments were intended to make the process for blocking websites more transparent, since they oblige corresponding bodies to publish the list of blocked resources on their official sites.²⁶ As of May 2015, no list of blocked sites has been created.

According to the legal requirements in place under the 2005 statute "On Counteraction to Extremist

18 Ulugbek Akishev, "Видео "Исламского государства". Дети из Казахстана угрожают убивать неверных," [Video of "Islamsh State". Children from Kazakhstan threaten to slaughter infidels] *Kloop* (blog), November 24, 2014, <http://bit.ly/1Pb5ao3>.

19 "Власти Казахстана просят удалить материал про 'детей-джихадистов'," [Kazakhstans' authorities ask Kloop.kg to remove materials on "children-jihadists"] November 24, 2014 <http://kloop.kg/blog/2014/11/24/vlasti-kazahstana-prosyat-kloop-kg-udalit-material-pro-detej-dzhihadistov/>

20 Предписание об устранении несоблюдений законодательства в области связи [Prescription on removal of noncompliance to legislation in communication field] *Kloop* (blog), December 10, 2014, <http://bit.ly/1LFwKD1>.

21 Bektur Iskender, Facebook Post [in Russian], December 15, 2015, <http://on.fb.me/1Pb5pzi>.

22 Communications State Agency of Kyrgyz Republic (NAS) "Агентство связи не собирается блокировать сайт www.kloop.kg," [SCA is not blocking site kloop.kg] December 12, 2014 <http://bit.ly/1RD61ML>.

23 Ulugbek Akishev, "Агентство связи Кыргызстана отозвало предписание о блокировке видео на Kloop.kg," [Communication agency of Kyrgyzstan called back their prescription about blocking video on Kloop.kg] *Kloop* (blog), December 16, 2014, <http://bit.ly/1VOHV1P>.

24 "Во втором чтении приняты поправки в закон о противодействии экстремистской деятельности" [The amendments to the law "On Counteraction to Extremist Activities" have passed second reading] *FOR*, February 28, 2013, <http://www.for.kg/news-216159-ru.html>.

25 Поправки о закрытии экстремистских сайтов отправили на доработку [Amendments on closing extremist sites are sent to revision] November 26, 2012, <http://bit.ly/18eWjdw>.

26 President of Kyrgyzstan, "ЗВ Закон «О противодействии экстремистской деятельности» внесены изменение и дополнения," [Amendments are made to the law "On Counteraction to Extremist Activities"] news release, May 13, 2013, <http://bit.ly/1G9R0R3>.

Activities,”²⁷ the procedure by which a website can be blocked must first begin with a request to the prosecutor.²⁸ After the request is issued, a review committee must be assembled consisting of representatives from different organizations (linguistic, religious, legal, and so forth) that can confirm the extremist nature of the site. However, members of the committee are appointed by the government, calling into question the committee’s independence and level of objectivity. Once confirmation is granted, a court issues a judicial decision to block the website. However, the process by which state authorities block online content has been inconsistent.

The government has also sought to restrict access to terrorism-related content. By the end of 2014, approximately 25 sites were recognized by the courts as extremist or as inciting national or religious hatred. According to the decision of the court, these sites must be blocked within the territory of Kyrgyzstan. However, the blocking is not consistent: not all sites are blocked and the blocking varies by service provider. According to last amendments to the statute on counteraction to extremist activities, the ministry of justice is required to publish the list of blocked sites, but they have not done so as of May 2015.

In February 2015, the State Committee on National Security proposed to implement a procedure through which websites could be blocked and registration licenses could be withdrawn without a court order.²⁹ Originally, the committee proposed making amendments to the law “On Counteraction to Extremist Activities,” which would allow the State Committee of National Security to send a request to the SCA to block certain extremist content, without a court order, and the SCA would forward the order to all ISPs. Civil society representatives included in the group protested, referring to the section of the constitution which states that human rights cannot be restricted with “sublegal acts” and proposed not to introduce extra-judicial blocking but to use existing “special” court procedures that oblige courts to make blocking decisions within short period of time (3-5 days). The debates over these potential amendments were still in progress as of May 2015.

The independent Central Asian news website *Fergana News* has been periodically blocked within Kyrgyzstan. In June 2011, the parliament passed a resolution instructing the government to block the news website based on charges that its content could incite national strife.³⁰ In February 2012, the SCA sent letters to all ISPs delineating the requirement to block the news website.³¹ However, by April 2012, only KyrgyzTelecom had implemented the blocking.³² On November 19, 2012, the human rights defender organization “Partner Group Precedent,” representing *Fergana News*, filed a lawsuit against the SCA claiming that the ban on the news site violated the right to freedom of expression.³³ During the court hearings, the SCA representative stated that their letter to ISPs requiring them to take measures on blocking *Fergana News* was of a voluntary nature and that ISPs were not forced to

27 Dmitry Golovanov, “Kyrgyzstan: Extremism Outlawed,” IRIS Merlin, August 2005, <http://bit.ly/1Lhfh4I>; “The statute on counteraction against extremist activities” as of February 20, 2009.

28 Representatives of the 10th department explained the procedure to the author in a private interview in December 2011.

29 Ayganysh Abdyaeva, “ГКНБ готовит документ, позволяющий блокировать сайты без решения суда,” [SCNS is preparing a document allowing to block web sites without court order] *K News*, February 9, 2015, <http://bit.ly/1LFxZ56>.

30 “Resolution of Jogorku Kenesh,” Kenesh.kg, June 17, 2011, <http://kenesh.kg/RU/Pages/ViewNews.aspx?id=8&NewsID=2678>.

31 “Пресс релиз Государственного агентства связи при Правительстве Кыргызской Республики” [Press release of the State Telecommunication Agency under the government of Kyrgyz Republic], February 22, 2012.

32 “Independent News Website Partly Blocked in Kyrgyzstan,” *Radio Free Europe/Radio Liberty*, February 22, 2012, <http://bit.ly/1WXZ1wW>.

33 Bakyt Ibraimov, “Kyrgyzstan: News Agency Sues Government Over “Illegal” Ban,” *Eurasianet*, December 12, 2012, <http://bit.ly/1jkRp9u>.

block the website.³⁴ In April 2013, the SCA sent official letters to ISPs in Kyrgyzstan confirming that they were not required to block the site. Subsequently, all ISPs—including the state one, Kyrgyz-Telecom—unblocked the site, though the legal status of the original parliamentary resolution is still unclear.³⁵

Content Removal

There were no cases in which the government forced the removal of content online – in most cases, content that the government deems illegal is hosted on servers outside of Kyrgyzstan, so ISPs resort to blocking the content since they cannot require that the host providers remove it.

Media, Diversity, and Content Manipulation

Currently there are no specific economic restrictions imposed by the government that negatively impact users' ability to publish content online, or that restrict online media outlets' ability to remain financially sustainable. At the same time, the Kyrgyz blogosphere is not well-developed. There are several popular blog-hosting platforms in Kyrgyzstan (such as Namba.kg, Kloop.kg, Diesel.elcat.kg, and Taboo.kg), but most blogs focus on entertainment, reprint reports from other news agencies, or simply contain a blogger's personal thoughts on different issues.

There are no particularly popular blogs specifically devoted to political or social issues. Most blogs are in Russian, though some are in the Kyrgyz language, but the latter are not as popular as the former. The internet in general has become an important source of alternative information for users, but since it is primarily the wealthier segments of the population who can afford to consistently access the internet, these are the main participants in online communities.

Self-censorship exists online to a certain degree, primarily as a result of government restrictions against the incitement of national hatred. All posts on forums are strictly moderated to limit this type of content, and online journalists and bloggers generally try to avoid issues concerning ethnic relations. Amendments to the criminal code signed by the president in May 2014, which introduced criminal penalties of up to three years in prison for disseminating false accusations of the commission of crimes, may also cause an increase in self-censorship among bloggers and investigative journalists, though it remains to be seen how these amendments will be applied in the online sphere.

Online platforms such as forums and social networks are actively used for manipulating public opinion, usually by trolls hired by different political actors to influence discussions and express favorable views. Reportedly, the compensation of a troll for one campaign can be anywhere from US\$200–700.

Digital Activism

Digital activism efforts remain limited in Kyrgyzstan. Perhaps the most successful online mobilization campaign of the past few years came in 2012 in response to the proposed legislation titled "On protection of children from information threatening to their health and development." This proposal provoked public outrage, and in an effort to bring attention to the issue, many of the largest ISPs

34 "Kyrgyzstan: News Site Unblocked, Yet Still Illegal," *Eurasianet*, May 7, 2013, <http://bit.ly/1WXZM91>.

35 "Kyrgyzstan: News Site Unblocked, Yet Still Illegal."

and content providers placed banners over their sites with slogans such as: “ATTENTION! This site can be closed. Get to know details and vote against.” The proposal also sparked the internet movement Kyrnet.kg, which conducted advocacy initiatives against the act. Within two months, the site had collected approximately 12,000 votes against the act. Furthermore, in a September 2012 meeting with a group of parliamentarians, representatives of Kyrnet.kg showed the results of the online vote and explained the act’s shortcomings. The parliamentarians agreed that the act needed further elaboration and promised to arrange an extended meeting with all of the parliamentarians who initiated the law for further discussion.³⁶

Violations of User Rights

While there have been few prosecutions for political or social content posted online in the past, in October 2014, journalist Dayirbek Orunbekov was charged for “knowingly disseminating false information regarding the commission of crimes” for writing an article online accusing the transitional government in 2010 of being responsible for the victims of the ethnic clashes in southern Kyrgyzstan. The court dropped the case due to a lack of evidence, though the Prosecutor General subsequently opened a defamation case against the journalist. In addition, the government’s capacity for surveillance of ICTs increased with a regulation requiring upgrades to SORM-3 technology, which instructs service providers to install black boxes on their networks, allowing intelligence agencies unfettered access without a court order.

Legal Environment

The rights to freedom of speech and freedom of expression are legally protected in the new constitution that was approved by referendum in June 2010, and which strengthens the power of the country’s parliament vis-à-vis the president. Article 31 of the constitution guarantees the right to freedom of thought, expression, speech, and press. Article 29 provides constitutional protections over privacy, including private correspondence (by phone, mail, electronics, or other methods), and forbids the collection or dissemination of confidential information without an individual’s consent. Nevertheless, the judiciary is not independent and remains dominated by the executive branch. Corruption among judges, who are generally underpaid, is also widespread, hindering the fairness of decisions in freedom of expression cases as well as others.

In July 2011, the government decriminalized libel to bring legislation in line with the new constitution. Nevertheless, “insult” remains a criminal offense and is punishable by a fine. Officials have long used libel charges to stifle critical media but have not applied these laws against bloggers to date.³⁷ The criminal code contains several provisions (Articles 299 and 299-1) that prohibit “inciting national, racial, religious or inter-regional hostility.” In some cases, the government has sought to apply these provisions in a bid to restrict nonviolent political speech as well.

On May 17, 2014, the president signed an amendment to the criminal code that criminalizes the dissemination of “knowingly false messages about the commission of crimes,” with the stated goal of preventing individuals from making such accusations for political reasons or to damage someone’s

36 Наши лайки работают [Our likes work!], September 17, 2012, <http://kyrnet.kg/archives/44>.

37 “OSCE Hails Kyrgyzstan decision to decriminalise libel,” *The Telegraph*, July 19, 2011, <http://bit.ly/1G9Sb35>.

reputation.³⁸ The amendment includes fines and sentences of up to three years in prison. Detracting from the progress made through the decriminalization of libel, this amendment could potentially have a chilling effect on online journalists and bloggers,³⁹ given that criminal penalties can now be levied for such content and that it is unclear exactly how the law will be interpreted. On May 28, 2014, the Association of NGOs and NCOs (noncommercial organizations) of Kyrgyzstan filed a suit with the Constitutional Chamber of the Supreme Court of Kyrgyz Republic, asking the court to recognize the law as contradictory to the Constitution of the Kyrgyz Republic; however, in a decision issued on January 14, 2015, the Court recognized the amendment as constitutional.⁴⁰

Over the past few years, members of parliament have proposed laws similar to ones passed in Russia that restrict civil liberties broadly, and could have implications for freedom of expression as well. One of these was an initiative that was almost identical to a law passed in Russia obliging NGOs receiving financing from international organizations to register as foreign agents. A draft of the bill was proposed in September 2013 by two deputies in Kyrgyzstan, one of whom is a former ombudsman. Given the vague definitions in the law, critics worried that all forms of civil activities could fall under this law and that NGOs could be shut down without a court decision.⁴¹ This initiative was widely debated and several international organizations expressed concern about its potential effects on freedom of expression and assembly.⁴² On May 26, 2014, the bill was introduced in parliament, and on March 10, 2015 it passed a first reading.⁴³ As of May 2015, the bill was still under review in parliament and had not yet been passed.

In February 2014, some members of parliament submitted a draft of an anti-gay “propaganda” law, similar to the law passed in Russia, which includes criminal and administrative penalties for “propaganda of non-traditional sexual relationships.” The draft received substantial criticism and was withdrawn; however, it was submitted again in May 2014 and in October it passed first readings.⁴⁴ The draft law includes penalties of fines or imprisonment up to one year for forming positive images of non-traditional sexual relationships through mass media or on the internet. The draft was heavily criticized by civil society and international organizations as discriminatory, and a petition signed by 74 international and local organizations was sent to the president and the relevant committees in parliament in an effort to prevent the legislation from moving forward. As of May 2015, the bill had passed first and second readings, but was still awaiting a third and final reading before being sent to the president.

All traditional media outlets must register with the government. In June 2011, the Prosecutor General’s office proposed amending the statute that regulates mass media⁴⁵ to include online news

38 Media Policy Institute, “Депутат ЖК инициировала закон, предусматривающего наказание за заведомо ложные обвинения, содержащихся в публичных выступлениях, публикуемых в СМИ,” [The deputy of JK initiated the bill, providing punishment for deliberately false accusation in public speeches published in mass-media] October 22, 2013, <http://bit.ly/1OxK6GL>.

39 ARTICLE 19 and PEN International, “Joint Submission to the UN Universal Periodic Review of Kyrgyzstan,” June 14, 2014, <http://bit.ly/1WY0tPV>.

40 Р Е Ш Е Н И Е КОНСТИТУЦИОННОЙ ПАЛАТЫ ВЕРХОВНОГО СУДА КЫРГЫЗСКОЙ РЕСПУБЛИКИ [Decision of Constitutional Chamber of Supreme Court of Kyrgyz Republic] January 14, 2015 <http://constpalata.kg/wp-content/uploads/2015/01/Umetalieva-NPO-NKO-111.pdf>

41 “А.Токмаков: В Кыргызстане могут определить “иностранцев” как в России,” [“Foreign agents” can be recognized in Kyrgyzstan as in Russia] *CentrAsia*, October 11, 2013, <http://www.centrasia.ru/newsA.php?st=1381474020>.

42 ARTICLE 19 and PEN International, “Joint Submission to the UN Universal Periodic Review of Kyrgyzstan.”

43 “Профильный комитет поддержал законопроект об иностранных агентах,” [Profile committee approved the draft law on foreign agents] March 10, 2015, <http://bit.ly/1L8fh9d>.

44 “Профильный комитет поддержал законопроект об иностранных агентах.”

45 The law, “On mass-media,” June 16, 2008, <http://www.medialaw.kg/?q=node/9>.

websites as a form of mass media, requiring them to have a license and to operate with the same responsibilities as traditional media outlets.⁴⁶ In January 2012, an expert from the Government Office seconded the recommendation;⁴⁷ however, it remains unclear whether online media are to be treated the same under the law as traditional news media outlets.

Prosecutions and Detentions for Online Activities

On October 29, 2014, the first criminal proceeding based on the law prohibiting the “knowingly false messages about the commission of crimes” was initiated against journalist Dayirbek Orunbekov, an editor for the online news agency Maalymat.kg. Orunbekov was accused of knowingly disseminating false information about the commission of crimes in his article where he accused members of the transitional government of being responsible for the violent ethnic clashes in 2010 in the south of Kyrgyzstan. The accusation was initiated by the Prosecutor General’s office, rather than through a claim from the injured party, and Constitutional Chamber decided that a journalist could not be accused of this crime based on this article. On April 16, 2015, the case was dismissed due to absence of *corpus delicti* (concrete evidence of the crime),⁴⁸ but the next day the Prosecutor General filed a new defamation suit, seeking KGS 1 million (approximately US\$ 15,000) in compensation for damage to the honor and dignity of the president.⁴⁹ As of May 2015, this case was still pending.

In February 2012, independent journalist and blogger Vladimir Farafonov was charged with inciting national hatred based on his publications on News-Asia.ru, Centrasia.ru and Parus.kg.⁵⁰ Farafonov had written a series of articles that were critical of Kyrgyz politics and which examined the potential effects of the 2011 presidential election on the country’s minority populations.⁵¹ The charge was based on the opinion of a commission convened by the security service, but given the fact that the commission was composed of only legal and political experts, Farafonov asked for Russian philology experts to review the case. These experts expressed their opinion that Farafonov had used language that was tough and sometimes tactless, but not extremist.⁵² The prosecution had asked for a sentence of 8 years in jail for Farafonov; however, the judge decided to reduce the sentence to a fine of KGS 50,000 (approximately US\$1,000). The case became widely known and provoked a wave of indignation from journalists,⁵³ as there were many cases of similarly tactless expressions by other

46 “Генпрокуратура Кыргызстана предлагает «законодательно к СМИ отнести интернет-издания и сайты, зарегистрированные в зоне kg»,” [Prosecutor General’s Office suggests “to legalize internet agencies and sites, registered in .kg zone, by inclusion them in the list of mass-media”] 24 News, June 6, 2011, <http://bit.ly/1jsVNT9>.

47 Nurzada Тунаева, “Эксперт Аппарата правительства предлагает разработать новый закон «О СМИ», чтобы регулировать информгентства,” [The expert of the Government Office suggests to work out the new statute on mass-media to regulate information agencies] K News, January 17, 2012, <http://bit.ly/1LFChJX>.

48 “В Бишкеке прекращено делопроизводство в отношении обвиняемого за ложное сообщение журналиста,” [The case against the journalist accused in dissimulation of knownly false message was dismissed in Bishkek] April 16, 2015, <http://bit.ly/1Ougtri>.

49 Media Policy Institute, “Представитель Генпрокуратуры пояснил детали иска против журналиста Д.Орунбекова о защите чести и достоинства президента и назвал сумму иска – 1 млн сомов,” [The representative of Prosecutor General office clarified details of suit against journalist D. Orunbekov and told claim amount 1 million Som] 24 News, April 22, 2015, <http://bit.ly/1G21vGr>.

50 ГКНБ Кыргызстана: Экспертиза подтвердила наличие признаков разжигания межнациональной розни в публикациях Владимира Фарафонова [SCNS of Kyrgyzstan: commission of experts proved the indications of national hatred incitement in publications of Vladimir Farafonov] 24 News, February 20, 2012, <http://bit.ly/1NCy9Rk>.

51 Committee to Protect Journalists, “Kyrgyzstan must drop charges against journalist,” February 29, 2012, <http://cpj.org/x/4989>.

52 “Журналист Владимир Фарафонов обвиняется в разжигании межнациональной розни!” [The journalist Vladimir Farafonov is accused in national hatred incitement!] Polit, February 24, 2012, <http://polit.kg/newskg/310>.

53 “Кыргызстан: После митинга в защиту В.Фарафонова в посольство РФ переданы обращения А.Князева, У.Бабакулова и российских соотечественников,” [Kyrgyzstan: After rally in support of V. Farafonov, petitions of A.Knyazev, U. Babakulov and

authors in Kyrgyz language media outlets who received no punishment, indicating that the government applies laws selectively.

Surveillance, Privacy, and Anonymity

Like many former Soviet states, Kyrgyzstan maintains and updates its surveillance technology in line with Russia's practices. Kyrgyzstan's surveillance network is modeled after Russian System for Operational-Investigative Activities (SORM) technology, and in August 2012, Kyrgyzstan updated its surveillance network to be on the same level as current Russian interception systems.⁵⁴

On June 30, 2014, the government adopted a resolution with new instructions for ISPs and mobile service providers to update their systems to the latest version of SORM technology. These instructions included requirements for service providers to store the data of their subscribers for up to three years, and to allow the authorities direct, real-time access to communications networks. Service providers are also required to purchase and update their equipment, at their own expense, to ensure compliance with the new SORM system. While there was evidence to suggest this kind of abuse of surveillance in the past, these new regulations effectively codify the potential for mass surveillance without judicial oversight.

In 2010 and 2011, there were several scandals that revealed the abuse of equipment used for intercepting communications. A subsequent study from June 2011 by the non-profit Civil Initiative on Internet Policy (CIIP) analyzed the legislative framework surrounding interception and its enforcement. It concluded that there were many gaps in the law that enabled interception equipment to be used, and even abused, without sufficient oversight.⁵⁵ In April 2011, the parliament passed a decision to switch off all interception equipment deployed on the premises of mobile phone operators.⁵⁶ However, according to reports from September 2011 by members of parliament, the equipment continues to function.⁵⁷

Since February 2012, the CIIP, together with the Kyrgyz State Committee on National Security and several human rights organizations, have been working on amendments to the statute on the Conduct of Investigations—the body responsible for regulating these issues—that would clarify the circumstances surrounding the use of interception and provide a more adequate legal framework.

There are currently no strict restrictions on anonymous communication on the internet in Kyrgyzstan. Websites do not need to register, encryption software is freely available, and real-name registration is not required to post content online. However, on February 17, 2014, the government issued a new regulation requiring mobile operators to sell new SIM cards only after they have been registered

Russian countrymen were submitted to Russian Embassy] *Fergana*, February 27, 2012, <http://bit.ly/1Zwjz1L>.

54 Andrei Soldatov and Irina Borogan, "Russia's Surveillance State," *World Policy Journal* (2013) World Policy Institute, <http://bit.ly/1cZerr4>.

55 "Анализ законодательства КР на соответствие применения СОПМ, – предварительное заключение" [Analysis of the Kyrgyz legislation, concerning lawful using of interception equipment -preliminary conclusion] Gipi, accessed September 17, 2012, <http://bit.ly/1jsXgZV>.

56 Resolution of Djogorku Kenesh № 332-V as of 15.04.2011, "On switching off mobile operators' lawful interception equipment."

57 "Дастан Бекешев: В Кыргызстане в компаниях сотовых операторов до сих пор действует система СОПМ," [Dastan Bekeshev: Lawful interception equipment still keeps working in mobile operators in Kyrgyzstan] *24 News*, September 8, 2011, <http://bit.ly/1jsXobQ>.

(previously, SIM cards could be registered within one year of purchase). This new regulation came into force on March 8, 2014, making it more difficult for individuals to use ICT tools anonymously.⁵⁸

Intimidation and Violence

In general, there is not a significant level of violence or harassment against ICT users in Kyrgyzstan, though there have been some isolated incidents related to online activities this year and in the past. In January 2015, online journalist Bulat Satarkulov was attacked shortly after covering a potentially controversial incident at the international airport. Activist and opposition member Adil Turdukulov had been stopped by the border guard service and was prevented from leaving the country on his way to the United States, under charges claiming that he owed US\$600 in debt to private companies. Turdukulov had been scheduled to travel to the United States as part of a delegation of civil society activists and representatives of the Kyrgyz government.⁵⁹ The next day, Satarkulov, who had filmed the incident, was attacked near his home as he was returning from the airport. The attackers beat him and took away his camera. However, it was not confirmed whether the incident was connected to Satarkulov's coverage of the event.⁶⁰

In 2014, there were several attacks on journalists, though it is unclear whether the attacks were related to the individuals' reporting. In February 2014, a youth group participating in a rally against LGBT people burned a photo of Ilya Lukash and called him a "destroyer of family values." Lukash is an active blogger and an advocate for human rights of LGBT people; he has also made statements against Kyrgyzstan joining the Eurasian Customs Union and protested in solidarity with the Ukrainian "Euromaidan" demonstrations. Following this incident, Lukash wrote on his Facebook page that he had been forced to leave Kyrgyzstan because of increasing pressure and harassment.

Technical Attacks

Instances of politically motivated cyberattacks are generally rare, including in the run-up to the 2011 presidential elections, but they do occur. In 2005, the OpenNet Initiative recorded the extensive use of distributed denial-of-service (DDoS) attacks against opposition and news websites, demonstrating a precedent for such attacks.⁶¹ In September 2011, there was one incident of hackers defacing Kabar.kg, the online government news agency website, but this did not significantly obstruct the agency's work. In March 2012, the social entertainment resource Namba.kg experienced a DDoS attack that was apparently part of an extortion attempt.⁶² In the same month, the news agency Vesti.kg also reported a DDoS attack on its site,⁶³ presumably because they had been republishing articles from *Fergana News*, though the motive remains unconfirmed.

58 NAS, "Об утверждении Правил оказания услуг подвижной радиотелефонной связи," [On approval of regulations of mobile telecommunication services] press release, February 25, 2014, <http://bit.ly/1G9UmdN>.

59 The Kyrgyz Committee for Human Rights, "Adil Turdukulov could not fly in the US," press statement, January 25, 2015, <http://bit.ly/1Pb9iUY>.

60 "Кыргызского оппозиционера не выпустили за границу," [Kyrgyz oppositioner was not allowed to come abroad] *Azattyk*, January 25, 2015, <http://bit.ly/1GEDBLO>.

61 OpenNet Initiative, "Country Profile: Kyrgyzstan," December 18, 2010, <http://opennet.net/research/profiles/kyrgyzstan>.

62 As reported by the blog at: "Why Namba did not work over the weekend," *Namba* (blog), <http://blogs.namba.kg/post.php?id=116481>.

63 Anna Yalovkina, "Редактор "Ферганы": Трудно судить, связаны ли DDoS-атаки на "Фергану" и "Вести"," [Editor of *Fergana*: It's hard to judge whether DDoS attacks on *Fergana* and *Vesti* are related] *VG*, March 29, 2012, <http://bit.ly/1VOKtx0>.

During 2012 there were several incidents of cyberattacks on government sites. The sites of the ministry of defense (Mil.kg), the State Communication Agency (Nas.kg), and the main portal of the government (Gov.kg) were defaced at different times. However, these attacks were attributed to the overall weak security of the sites, rather than to attacks by the opposition, and all attacks were made automatically by finding vulnerability in the website. On August 24, 2014, the government portal was hacked again.⁶⁴ According to researchers, the server had been infected with Chinese malware in 2013 that was still active at the time of the attack.

⁶⁴ Anna Yalovkina, "Взломан сайт правительства Кыргызстана," [Web site of the government of Kyrgyzstan is hacked] VG, August 24, 2014, <http://bit.ly/1OuhgIW>.