Legacies of Division

DISCRIMINATION ON THE BASIS OF RELIGION AND ETHNICITY IN CENTRAL ASIA
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This publication has been produced by the Equal Rights Trust, following four years work to document and expose ethnic and religious discrimination in the countries of the Central Asia.

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This publication seeks to draw together, contextualise and analyse the findings of research conducted by the Trust, its partners, consultants and researchers in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, with the aim of identifying common causes and consequences. We are grateful to all those who participated in the research and development of the reports In the Name of Unity: Addressing Discrimination and Inequality in Kazakhstan, Looking for Harmony: Addressing Discrimination and Inequality in Kyrgyzstan, and After the Padishah: Addressing Discrimination and Inequality in Uzbekistan, and our forthcoming report on discrimination and inequality in Tajikistan.

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In the process of producing our reports on discrimination and inequality in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, the Trust sought information or consulted experts and organisations in each of these countries, many of whom are cited in the report. The Equal Rights Trust wishes thank all individuals and organisations who responded to queries, gave feedback, provided information and advice, or met with us, our partners or researchers. Finally, we wish to thank all persons who shared their stories with us. This report is dedicated to them and all other persons in the region who have suffered – and those who continue to suffer – discrimination and exclusion.
Each of the countries which constitute the region referred to today as “Central Asia” is unique. Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan each have their own history and geography, their distinct culture and demography, their specific polity and economy. As independent states, these countries have followed different paths, reflecting their different social, cultural, economic and political norms.

Yet these states also share a common history – dating back more than two centuries – of conquest, colonisation and, to some extent, assimilation. First under the Tsarist Russian empire and then as part of the Soviet Union, the states of modern Central Asia were for centuries ruled by powers based in St Petersburg and Moscow. Tsarist and Soviet policies left a significant legacy. In particular, they transformed both the ethnic and religious make-up of the region and understandings of national, ethnic and religious identity.

Starting in the 18th Century, the Tsarist Russian empire began to expand to its south, into the region known today as Central Asia. Beginning with isolated fortifications and settlements and ending in conquest, subjugation and imperial control, Russia eventually assumed authority over the entire region. Following the Bolshevik Revolution in 1917, attempts at self-determination and independence came to an end quickly, and by the 1920s, Soviet Russia had asserted authority throughout the region. Five Soviet Republics were established which, while nominally autonomous, had severely limited independence in practice.

This history of rule by an outside power fundamentally shaped the ethnic make-up of the five Central Asian republics. Two centuries of Russian control, and the immigration associated with that control, means that each of the countries has an ethnic Russian minority – in some cases a very large minority – and that Russian is a commonly used language of communication. Each state is also home to one or more “reciprocal minorities” – ethnic Uzbeks in Kyrgyzstan, ethnic Tajiks in Uzbekistan, for example – as a result of Soviet policies of national delimitation which paid little heed to the realities of ethnic settlement and co-existence prior to the arrival of Russia. The states are each also home to ethnic minorities from other parts of the Soviet Union, the result of both economic migration and deportation.

Tsarist and Soviet influence can also be seen clearly in the sphere of religion. Russian imperial influence and the immigration of large numbers of ethnic Russians during the Soviet era led to a situation in which Russian Orthodox Christianity became an established religion in all states, in a region where Islam otherwise dominates. More broadly, Soviet state atheism has informed modern political attitudes towards – and regulation of – the practice of religion, including the Shia Islam which has historically been practiced throughout the region.

Research conducted by the Equal Rights Trust – together with our courageous partners and independent researchers over the last four years – has found that the shared history of the Central Asian states has resulted in shared experiences
of ethnic and religious discrimination. In this publication, we set out to identify and explore transnational and regional patterns of ethnic and religious discrimination and disadvantage, looking at common causes and manifestations. Drawing on – and expanding upon – the Trust’s own research in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, the publication is designed to catalyse debate about the common causes and consequences of ethnic and religious discrimination in the region, and to foster discussion of potential solutions.

In order to properly understand the roots of ethnic and religious discrimination in the region, the publication begins with a discussion of the history of the region over the last three centuries. Galym Zhussipbek, a historian specialising in the history of the Central Asia region, traces the history of Russian intervention in Central Asia under the Tsars, and then examines the establishment of the Soviet Union in the region. In both cases, the author focuses on policies and processes which impacted upon the ethnic and religious make-up of the states, or on understandings of ethnicity and religion. His paper elucidates the way in which, under the Soviet Union, national delimitation and mass immigration transformed the ethnic make-up of the states, while Soviet nationality policy established particular understandings of ethnicity and nationality. It also examines the way in which the Tsarist and Soviet regimes – one rooted in Orthodox Christianity, the other in state atheism – dealt with religion in a region in which Islam played a central role in the lives of the populace.

In the second and third papers, Victoria Catliff, an international humanitarian and human rights professional with more than a decade’s experience of legal and social research in the Central Asia region, examines patterns of religious and ethnic discrimination. Her papers draw upon the research conducted by the Equal Rights Trust in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, complementing and contextualising these findings with additional information, and bringing new analysis of the links, connections and commonalities in experiences of ethnic and religious discrimination in the region.

In respect of religious discrimination, the commonalities and echoes between the four states under review are remarkable. The majority population in all Central Asian states identifies as Muslim – and political leaders in a number of countries have sought to co-opt Islam as a tool for political power. Nevertheless, the Soviet legacy of state atheism is clear to see, manifested in the tight regulation of religion, impacting in particular on small, heterodox or non-traditional faith groups. All four states – despite providing constitutional guarantees of religious freedom – maintain notably similar legal frameworks which tightly regulate the practice of religion. Those wishing to practice religion are forced

1 The Equal Rights Trust was unable to undertake such research in Turkmenistan, due to the restrictive environment for civil society work in that country.

to register a religious association, or face administrative (or in some cases criminal) penalties. Registration requirements are onerous, indirectly discriminating against minority groups which lack the membership to meet threshold requirements, or the resources to comply with administrative requirements. In each case, registration involves a process of theological review, creating ample space for direct discrimination in application. Registration is a requirement for a great many aspects of religious practice and as such, non-registration leads to the discriminatory denial of freedom of religion. In addition, religious practice in the absence of registration leads to penalties, or harassment by law enforcement agencies. Moreover, this legislative framework serves to legitimise discrimination by private actors in both education and employment.

In respect of ethnic discrimination, Catliff finds significant evidence of regional patterns. As noted, Soviet policies of national delimitation and mass migration (both voluntary and forced) mean that all of the Central Asian states are home to both an ethnic Russian minority, and at least one “reciprocal” minority – an ethnic group which is the majority group in one of the neighbouring states, though the sizes of these groups vary by state. All states are also home to smaller minorities – notably the Lyuli – who are particularly vulnerable to discrimination due to their small numbers and social marginalisation. Commonalities in respect of the ethnic make-up of the states are also reflected in patterns of discrimination across the region. Language is arguably the single most significant factor in patterns of discrimination, with problems in access to public services, education and employment all arising from each state’s promotion of the language of the ethnic majority. Alongside the reduction in support to minority languages, particularly in education, the diminishing use of Russian – the language of “inter-ethnic communication” – in official communication has had a particularly deleterious effect.

Taken together, these papers together identify distinctly regional, transnational patterns of discrimination and disadvantage arising on the basis of both religion and ethnicity. Despite their different pasts and the divergent approaches taken by the governments of the Central Asian countries today, experiences of ethnic and religious discrimination bear remarkable similarities. This commonality is, in very large part, attributable to the shared history of the states in question, particularly under the Soviet Union. Patterns of ethnic and religious discrimination today bear witness to the legacies of division which each state has inherited.

This publication was conceived to identify and map regional and transnational patterns of discrimination and disadvantage on the basis of ethnicity and religion. It is intended to encourage debate and discussion on the common causes and manifestations of such discrimination. As such, no recommendations are made, either to the states in question, or to international actors. Nevertheless, we hope that in elucidating the common roots and common experiences of discrimination in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, this publication will encourage collaboration between the states, in the search for solutions.

Jim Fitzgerald, July 2017
Central Asia as commonly understood today is constituted of five republics: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan. Each of these republics is the direct successor to a Soviet Socialist Republic, and each became independent on the dissolution of the Union of Soviet Socialist Republics (USSR) in 1991. Barring a brief period of greater autonomy in some parts of the region in the wake of the twin 1917 revolutions in Russia, 1991 marked the first time the peoples of this vast and diverse region had been free of direct control from Russia for over 150 years.

It has been noted that “both Tsarist Russia and the Soviet Union would have been very different without their Central Asian territories”. During both the Tsarist and the Soviet Union periods, the region stood out as one with an indigenous, non-European, Muslim majority, which according to some scholars constituted a Russian “Orient.” Northrop emphasises that Central Asia helped to make Tsarist Russia European and that after 1917, too, Central Asia continued to play this role for Soviet Russia, even as it also helped define communist ideology for the colonial world. These differences informed, in turn, the particular approach taken by the Tsarist and Soviet authorities to governance in the region.

Yet the impact of Russian control over Central Asia was – inevitably – far greater on the region itself than on the imperial power. First under the Tsars, and later under the USSR, the states of modern Central Asia were subject to direct control from Russia for more than a century and a half. Both the Tsarist and Soviet periods represent a shared, but deeply controversial, history for the millions of people in the five Central Asian states. In simple terms, all aspects of life for the

1 Tolipov, F. (ed.), Five States and/ or One Region? National-Regional Dualism in Central Asia, Friedrich Ebert Stiftung, 2016, p.6.
4 See for example, Buranelli, F., “Knockin’ on Heaven’s Door: Russia, Central Asia and the Mediated Expansion of International Society”, Millennium: Journal of International Studies, 2014, 42(3).
Central Asian peoples were – and still are – directly and profoundly marked and shaped by the policies and actions of external powers, based in St Petersburg and Moscow.

In particular, the ethnic and religious make-up of these states has been, to varying degrees, determined by the actions of the Tsarist and Soviet authorities. Moreover, understandings of ethnicity and religion have been profoundly influenced by the policies of these outside powers. Public and political understandings of collective and national identity, the relative position of ethnic groups and the treatment of minorities have all been informed by the policies of the Tsarist and Soviet authorities.\(^6\) State policy on national and minority languages – a central issue in both Kazakhstan and Kyrgyzstan, for example – can also be seen as a reflection of, and a reaction to, Soviet policy in particular.\(^7\) The nature of relations between the state and religion – and in particular the tight regulatory framework governing the exercise of religious freedom – is another area in which the hallmark of Soviet policy can be clearly seen.\(^8\)

This paper examines the history of the Central Asia region during the Tsarist and Soviet periods, with a particular focus on how these two regimes have shaped and informed the ethnic and religious constitution of the five states, and state policies on ethnicity and religion. In so doing, it aims to provide a basis for understanding the patterns of ethnic and religious discrimination and disadvantage in the five independent republics which constitute Central Asia today.

1 Tsarist Expansion into Central Asia: Conquest and Colonisation (1730s -1880s)

First steps: the Colonisation of Kazakh Steppes (1730s – 1840s)

The first steps towards Russian intervention in the Central Asia region were made in the Kazakh territories, in the region bordering the Russian state. Diplomatic contacts between Moscow and the Kazakh people are recorded as early as the 1570s and 1580s, after the Russian conquest of Kazan and Astrakhan and its expansion into Siberia.\(^9\) Contacts resumed in 1594, when Taukekkel Khan dispatched envoy Khul-Mukhammed to conclude agreements with the Russian government on a number of issues, including a military alliance.\(^10\) However, the

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\(^6\) See, for example, Omelicheva M. (ed), Nationalism and Identity Construction in Central Asia: Dimensions, Dynamics, and Directions, Rowman & Littlefield, 2015.


Russian rulers – buoyed by their victories in Siberia and the other regions formerly under the control of the Golden Horde – aimed to claim suzerainty over the Kazakhs.11

Diplomatic relations between Russia and the Kazakh rulers did not resume until 1716.12 By this point, in the 18th century, the Central Asian steppe was largely controlled by the Kazakh Khanate. By 1718, after the death of Tauke Khan, who had been recognized by much of the elite the three Kazakh Hordes (Zhuzes), the Kazakh Khanate splintered into three: the Elder, Middle and Younger Hordes (Zhuzes).13 In the period 1723-1725, these Khanates were considerably weakened by the Dzungars, a group formed by tribes originating in the west of modern-day Mongolia which invaded China and Tibet before expanding into Central Asia. The Dzungar undertook devastating raids into parts of the Kazakh, Kyrgyz and Syr-darya regions. The Khanates lost significant territory and population, while cities around the Syr-darya region – including Tashkent – were occupied. While the Dzungar state was destroyed by the army of the Manchu Chinese Qing Empire, the Khanates were not able to unite their military forces and coordinate their domestic and foreign policies.14

Thus, starting in the 1730s, the rulers of the significantly weakened Kazakh Zhuzes began to turn to the Russian Empire to seek protection. Contrary to the professions of the Tsarists however,15 the Kazakh people did not voluntarily submit to becoming the vassals – let alone the subjects – of the Russian empire. When, for example, Mirza Kutlu Tevkelev, a Russian envoy, arrived to administer the oath of protectorate to Abulkhair Khan, leader of the Younger Horde, angry Kazakhs, led by their “elders”, forced him to seek immediate refuge. Abulkhair then confessed that he had not consulted with the elders and had instead written to the Russian Empress alone, in an apparent attempt to enhance his own authority among the Kazakhs. Moreover, the Khans and the Russians clearly interpreted the nature of the oath of protectorate and the resulting new relationship differently: essentially, what Abulkhair Khan sought was assistance, not incorporation.16 Indeed, text of the oath and other relevant documents indicates a relationship between two subjects of international law, with no clauses about the incorporation of Kazakh lands into Russia.17

Yet Russia saw an opportunity to extend its authority and sphere of control into the steppe region.18 Moreover, before reaching any agreements with Kazakh leaders, the Russians had already embarked on the gradual expansion into the

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12 Ibid.
15 See above for example, note 11, p. 26.
17 See above, note 11, p. 31.
18 See above, note 16, p. 29.
region, with construction of Cossack forts. The first Cossack settlements along
the Russo-Kazakh border appeared in the early 17th century: a fort was built
at Yaitski Gorodok (Uralsk) in 1613 and one was built at Guriyev (Atyrau) in
1645. From these two starting points, a great arc of fortified settlements was
constructed, marking the line from which the Russian state began a two cen-
turies long campaign of expansion deep into Central Asia. A chain of fortified
cities was established with fortifications in Omsk (1716), Semipalatinsk (1718),
Ust-Kamenogorsk (1720) and Koriakovski (later Pavlodar) (1720).\textsuperscript{19} In a second
wave, a fort was established at Orenburg in 1743 and a line of forts was then
constructed, advancing into the steppe lands. By the end of 1700s, a line of 46
military forts and 96 redoubts had been constructed, comprising the Yaik, Oren-
burg, Ishim, and Irtysh lines\textsuperscript{20}. These fortified Cossack settlements provided the
base for direct military action against – and ultimately conquest of – states in the
Central Asian region.\textsuperscript{21}

Tsarist Russia’s gradual expansion into Kazakh-dominated lands came about
through various means, ranging from peaceful engagement to direct conquest,
but settlement of Russian migrants was a common feature. After strengthening
its position in the upper basins of the Ural and Kama rivers, the Tsarist authori-
ties began systematically populating this area, first with Cossacks and later with
peasants; the same approach was used in the areas populated by the Kazakhs.\textsuperscript{22}
Control of territory came about both from negotiated settlement by ethnic Rus-
sians and from the forceful expulsion of the native population and the settle-
ment of Slavic peoples on the best lands, accompanied by the establishment of
military fortresses in strategic areas.

The Russian authorities repeatedly stated that their aim was to cultivate
“non-possessed lands”,\textsuperscript{23} but this was a myth: all parts of the steppe belonged to
a particular tribe. The Russian image of nomads who stolidly persisted in an itin-
erant lifestyle, maintaining their herds until some calamity, such as drought or
disease, forced them to settle, was false.\textsuperscript{24} As Schatz noted, the Kazakh nomadic
pastoralists in these so-called “non-possessed lands” had loose but still notable
attachments to territory.\textsuperscript{25}

If the first stage of Russian colonisation was based on fortification and resettle-
ment, as the 1800s began, the assertion of power became more overtly political.
Observing the lack of power in the region, by the early 19th century, Tsarist Rus-
sia decided to assert its control directly over the Kazakh tribal confederations.

\textsuperscript{20} Aleksyev,A., “Russia and Central Asia: economic and political relations in XVII-XIX centuries”, in Rossia i
Vostok (ed), Russia and Orient, Saint-Petersburg State University, 2011, p. 24.
\textsuperscript{21} Allworth, Edward., Encounter, Central Asia: 130 Years of Russian Dominance, A Historical Overview, 3d
\textsuperscript{22} See above, note 19.
\textsuperscript{23} See for example Schatz, E., Modern Clan Politics: The Power of “Blood” in Kazakhstan and Beyond, Univer-
\textsuperscript{24} See above, note 16, p. 21.
\textsuperscript{25} See above, note 23.
Throughout 19th century, the Russian Empire gradually transformed the protectorate status of the Kazakh Hordes into that of a colony through a series of political and administrative reforms and military interventions.26 After the death of Abylai Khan, the Middle Horde became greatly weakened and was ultimately annexed in toto by Russia in 1822. The incorporation of the lands of the Younger Horde (Zhuz), which had begun as far back as the 1730s, ended two years later, in 1824. After formal annexation of the territories of Younger and Middle Hordes, lands were subdivided according to established Russian patterns of local governance which supplanted traditional Kazakh confederated structures.27 A small group of the Kazakh tribes were permitted to retain their semi-independent and self-governing status under the name of Bukei Horde, but ultimately it too was abolished in 1845.28

The Conquest of Middle and Southern Central Asia (1860s-1880s)

While Peter the Great’s attempts to conquer Transoxiana (an ancient name which roughly corresponds with the modern-day Uzbekistan, eastern parts of Turkmenistan, southern Kazakhstan and western parts of Tajikistan) in the early eighteenth century had ended in disaster,29 by the 1860s, the situation in the central parts of Central Asia looked dramatically different. States in the region – politically divided and described by British travelers as “an impoverished land”30 – were weakened by conflict and internal disharmony. In this context, and with diminishing power of the Manchu Chinese Qing Empire, an expansionist Tsarist Russia saw opportunities.

By the 1860s, the three independent states in the central part of the region – the Bukhara Emirate and the Khanates of Khiva and Kokand – were warring with each other, with Iran and with the Kazakhs to the north. All took captives, who ended up in the slave markets, and conflict ruined local economies. The Khanate of Khiva in particular enjoyed a reputation for lawlessness and was a notorious center of the slave trade. Also, once-famous for its education and scientific centers the Bukharan Emirate had stagnated and become embroiled into fanaticism.31 Facing weak and divided opponents, and with both technological and numerical superiority, the Russian military assessed that it could conquer the independent states in the region relatively quickly.

By and large, Tsarist conquest of the three independent khanates in the central part of Central Asia, Russia combined military force with diplomacy. Before launching a series of decisive military interventions, Russia initiated a propa-
ganda campaign, emphasising the need to save between 8,000 and 60,000 slaves of Russian origin. Military activity began in earnest after the Crimean war. In 1864, Russian troops captured Auliye-Ata (Taraz), Chimkent and other places in southern Kazakhstan. In 1865, General Chernyaev took Tashkent, a vital stronghold of Kokand. Russian military victories were rapidly followed by loss of independence, as the states accepted protectorate status. Bukhara became a Russian protectorate in 1868, while the Khanate of Khiva accepted protectorate status in 1873. The final defeat of Khanate of Kokand came in 1875-6.

In contrast to the politically divided khanates, the Turkmen tribes opposed the expansion of Russian Empire in Central Asia after 1865 vigorously, seeking to maintain their tribal traditions. As a result, the conquest of Turkmen territory was completed only in 1885.

Drivers of the Tsarist Russian Expansion in Central Asia

Imperial Russia’s expansion southwards, across the Kazakh steppe, into the oases of the middle parts of Central Asia and its urban centers, was one of the 19th century’s most rapid and dramatic examples of imperial conquest. Yet, while explorations of the Russian conquest of the Caucasus or its expansion in the Far East have been undertaken, the principal phases of the Russian expansion in Central Asia remain neglected and misunderstood, not only the literature in English but also in Russian. As a result, while modern Russian writing on the history of the conquest can regress into jingoism, so too can post-independence literature from modern Central Asian states mistakenly present the conquest as warfare along straightforwardly ethnic and religious lines. The risks of oversimplifying political realities and relationships – the complex web of alliances and conflicts which existed between Russia, the Kazakhs and the Central Asian Khanates – are manifold.

It is equally difficult to discern clear explanations for the Tsarist expansion into the Central Asian region range from the economic to the geopolitical and from considerations of imperial identity to demographic pressures inside Russia. In Soviet historiography from 1940s, the incorporation of Central Asian states into the Tsarist empire in the pre-Soviet era was officially presented as an effort in ‘uniting’ (‘prisoedinenie’). More broadly, historians who rely on Soviet-era literature tend to give primacy to economic motives, focusing specifically on the needs of the Russian textile industry, and its need for both a secure domestic

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33 Ibid.
33 Geiss, P., Pre-Tsarist and Tsarist Central Asia: Communal Commitment and Political Order in Change, Routledge Curzon, 2003, pp. 197-199.
34 Ibid., p. 153.
36 See above, note 3, p. 131.
37 Ibid., p. 132.
38 Ibid., p. 135.
supply of raw materials and a captive market for Russian goods.40

Other scholars have focused on Russia’s geopolitical interests. It has been noted that establishing direct control over states in Central Asia strengthened Tsarist Russia’s position in response to an expanding British presence in the region.41 Yet other scholars argue that the Tsarist military may have sought to conquer Central Asia to re-establish prestige after the devastation of the Crimean War, providing “a compensatory psychological need as balm for the wounds inflicted on national pride by the Crimean debacle.”42

Nor can the domestic politics and internal dynamics of Russian society be ignored. In the wake of the conquest in Central Asia, the Russian Empire embarked on widespread reforms of its social structures, reshaping the judiciary, economy, polity and the agricultural system to more closely resemble a ‘European’ state. Russia was the last European power to abolish serfdom, in 1861; less than fifty years earlier, in 1815, approximately 21 million of the 45 million people in Russia were serfs, owned as personal property.43 The abolition of serfdom created significant demographic pressures in European Russia fueled a search for vacant arable land to accommodate Slavic migrants.44

Another factor in imperial expansion was the undeniable tendency of Russian imperial officials and intellectuals to perceive themselves as agents of a civilising and modernising mission in Central Asia.45 As a “great power” of the era, the Russian Empire was driven to advance, expand and annex adjacent territories. This was even more the case when the people who populated these (particularly in Asia) lands were seen as backward and in need of “imperial protection and enlightenment”.46 In this conception, Tsarist Russia was a modern “European” imperial state with a great mission to be accomplished in an area dominated by “backward peoples” in need of elevation to the ranks of modern civilisation.47 Nothrop argues that, from the late 19th century onwards, imperial Russia’s claim to a “European” identity and a place among the world’s “civilised” nations came to be linked increasingly to the practice of empire-building and its self-proclaimed mission to modernize its imperial periphery, perhaps most visibly in Central Asia. In effect, “the colonial space of Turkestan served as a kind of civilizational laboratory, a place for thousands of Russian people to work out who they were.”48

40 Ibid., p. 135.
42 See above, note 4, p. 825.
43 Ibid.
44 See above, note 23, p. 33.
47 See Morrison above, note 45, pp. 387-417; see Sahadeo above, note 45, pp. 2-3 and 10.
48 See above, note 5, p. 6.
In reality, the Russian conquest of Central Asia was a result of the interplay of different many factors. It was not only a side-effect of the Great Power competition of the 19th century, as is generally argued; nor was it the inevitable outcome of the development of Russian industrial capitalism; nor was it the accidental in the flow of history. Whatever the factors driving Russian expansion in the region, the significance of the conquest of states and lands in Central Asia by the Tsarist empire cannot be overstated.

2 Central Asian Societies Under Tsarist Rule (1880s – 1916)

If the Russian state had a masterplan for the administration of its newly acquired Central Asian territories, it is difficult to discern. The Russian administration operated, as far as possible, at a distance, hoping to minimise the cost of governance and the chances for friction with local sensibilities.

Following administrative reforms in 1898, Tsarist territories were divided into two General Governorates – the Steppe, consisting of the provinces of Akmolinsk and Semipalatinsk (corresponding to modern-day northern, central and eastern Kazakhstan) and Turkestan, comprising the provinces of Syr Darya, Semirech’e (southern and south-eastern parts of modern Kazakhstan, northern and central regions of modern Kyrgyzstan, and the Tashkent area of modern-day Uzbekistan), Fergana, Samarkand, and Transcaspia (modern-day Turkmenistan) – together with two Russian protectorates, the Bukhara Emirate and Khiva Khanate (multi-ethnic states comprising the territories of modern-day Uzbekistan, Tajikistan and north-eastern parts of Turkmenistan). The General Governorate of Orenburg administered the rest of the Kazakh steppe (Ural’sk and Turgay provinces). Within these General Governorates, the local population remained under their traditional leaders, and Tsarist officials generally did not intervene in local religions and cultural matters.

Tsarist administrators did not try to change the lifestyle of the nomadic peoples in the region: the state was wary of promoting sedentarisation, and although the policy was implemented in some places, it was on a limited scale. Russian scholars considered the nomadic lifestyle to be that most suited to the steppe, warning that it would be unwise to transform rich herdsmen into poor farmers. Indeed, it would be more than a century the Soviet Union forced nomads of the region to settle, in the 1930s.

The newly conquered and annexed peoples in Central Asia were designated ino-
rodtsy (aliens) – subjects, but not full citizens, of Russia. In one respect, this reflected the fact that the Tsarist regime was uncertain as to the loyalty of its newly acquired Muslim population, as it was of non-Orthodox Christian or Jewish subjects in other parts of its empire. Yet, while the decision to label people as inorodtsy – marking them out from Russian Orthodox Christian subjects – might appear condescending or derogatory, in reality, the term had multiple, alternative and overlapping meanings. The term was used by Russian state in several ways: as a legal estate category designating various non-Russian (non-Orthodox Christian) minorities; as a means of assuring non-Russian peoples that they could preserve their local way of life and traditional status and benefit from certain privileges, such as exemption from military service; and as an indicator of the “tribal” origins of a people who were “different” due to their under-developed status and so could not be assimilated into the category Russian.

3 Tsarist Rule in Central Asia and Islam

The Tsarist “hands off” approach to governance in its Central Asian territories extended into the area of religion. Indeed, one official, General von Kaufman, is noted as stating during his reign as the Governor-General of Turkestan (1867-1882) that Islam should be ignored and that, lacking state support, it would lose ground.

Before Russian expansion into Central Asia, Islam had experienced dark periods in the Russian territories, but starting in the late 18th century, the state’s attitude began to shift. Catherine the Great, seeking to bring all religious institutions under greater state control, gave Muslims the status of a tolerated minority and allowed the reopening of Muslim schools, and in 1788, the Russian state created the Muslim Spiritual Assembly. Yet the state response to Islam was not uniform: the Russian authorities distinguished between “steppe Islam”, seen as uncontrollable, the Islam of the Volga Tatars, seen as more or less “preferable”, and the Islam of the Central Asian urban places, which was considered a “hotbed of fanaticism.”

As a result of its conquest in Central Asia, by the end of the 19th century, Russia had some 20 million Muslim subjects, a larger Muslim population than that of the Ottoman Empire. The Russian government treated this vast Muslim minority within a non-Muslim imperial state with caution. Nonetheless, the Tsarist administration did not interfere in the religious life of the people over whom it claimed control. The Khiva Khanate and Bukhara Emirate, with their Muslim rulers, were not abolished but granted protectorate status. In the General Gov-

55 See above, note 29, p. 128.
57 See above, note 34, p. 210; See above, note 29, p. 126.
58 See above, note 29, p. 124.
59 Ibid.
60 See above, note 34, pp. 207-213.
By the turn of 20th century, Muslims throughout the Tsarist empire had officially been granted “legal confessional autonomy” and lived under to legal jurisdictions: the Russian Imperial and Islamic. Tsarist policy retained Islamic Shari’a and customary law (adat), to the extent that they did not conflict with government policy. However, while the state maintained an official position of “indifference” and allowed sharia disputes to be resolved within Muslim communities, in practice, the Tsarist imperial law imposed some constraints on the interpretation and implementation of Islamic law.

This interaction of two legal systems was only one way in which – despite the “remote” approach to governance adopted by the Tsarist regime – Russian imperial control in Central Asia led to the introduction of new ideas and ideologies. The establishment of Russian imperial institutions and spread of modernist and liberal ideas in Russian society – and thus into the Central Asian colonies - influenced the thinking of the region’s Muslim intellectuals and religious scholars.

In this environment of interaction, the Muslim reformist movement Jadidism (“Jadid” literally meaning “New”) was born. Jadid intellectuals attempted – in their own conception – to reconcile Islam with modernity. They believed that the Muslims had to acquire modern knowledge and thus reform their understanding of Islam. Through education, increased literacy and use of the media, the Jadids aimed to defend their indigenous Muslim culture by adapting it to modern conditions. While the Tsarist government was wary of Jadidism among Tatars, in Central Asia it regarded Jadidism as an antidote to “Muslim fanaticism”. As will be seen below, the rise of Jadidism was to have a significant impact on the political development of the Central Asia region.

Migration of Russian Settlers

As the Russian historian Klyuchevskii noted in the 19th Century, migration and colonisation were basic features of Russian history, to which all other features were related, to a greater or lesser extent. Russian migration into the Central Asia region began with settlement on the Kazakh Steppes – initially limited to Cossack military settlements – in the 17th century. However, migration increased significantly in the last quarter of the 19th century, peaking in the 1910s, as large
Mass migration of Russian peasants into the newly annexed Central Asian lands accelerated in the second half of the 19th century as state policy evolved from one of acquiescence to one of direct incentivisation of settlement. Following the abolition of serfdom in Russia in the 1860s, large numbers of peasants migrated to the region. At first, the state neither encouraged nor prevented such migration, but in 1889, a Resettlement Bill was enacted and the state began to actively encourage peasant migration. In a bid to resolve the problems of the landless former serfs in Russia, peasant families were offered plots of purportedly “unoccupied” land. This offer triggered mass migration of Russian peasants into Central Asia, particularly to western and northern Kazakhstan, and later to central and southeastern parts of the country. In 1906, the state adopted Stolypin agrarian reforms and peasant resettlement became an imperial priority.

While the growth of native Kazakh population in the period 1897-1916 was relatively low, migration drove a massive increase in the size of the Russian population. First Cossack, and then peasant, settlement transformed the demographics, society and economy of the country. In Turgay region, for example, the Russian population increased ninefold (from 35,000 to over 300,000), while in Akmolinsk region the proportion of the population which was Russian increased from one third in 1897 to almost 60% in 1916. By 1914, Russians constituted between 30% and 40% of the population of Kazakhstan.

Substantial groups of peasants came to other territories also, particularly to the valleys of Northern Kyrgyzstan. While Kazakhstan undoubtedly bore the brunt of mass immigration and resettlement, significant groups also settled in other parts of the region, particularly the valleys of northern Kyrgyzstan. The Turkestan General Governorate received some 336,000 settlers from European Russia in 1916 alone. In general, settlers received the best land: for example, at the end of the 19th century, 15.3 million hectares of fertile land was confiscated in Kazakh oblasts and made available for the use of settlers. Later, as a result of Stolypin’s agrarian reforms, the confiscation process was accelerated and altogether around 44 million hectares of fertile land (approximately 20% of the agricultural land) was confiscated in the region. This led to the emergence of landless class of Central Asians, fueling the ethnic tensions which would erupt in 1916.

70 See above, note 68.
71 See above, note 29, p. 128.
73 See above, note 68.
74 See above, note 29, p. 128.
Alongside the active resettlement of peasants, more regular forms of economic migration took place. In the early 20th century, a predominantly Russian class of workers emerged in Central Asian urban areas, in response to increasing economic possibilities in the region. As the worldwide demand for cotton grew, for example, Turkestan, with its long history of cotton cultivation became “a huge cotton plantation for Russia” and increasingly turned into one-crop economy; by 1912, it produced 64% of all Russian cotton.  

In addition to changing the ethnic constitution of the region, the migration of large numbers of people from other parts of the Tsarist empire had a significant impact on the practice of religion in Central Asia, as significant Christian populations settled in the region. The migration of first the Cossacks, then Russian, Ukrainian and Russian-German settlers in the late 19th and early 20th centuries brought hundreds of thousands of Orthodox Christians to the region. The forced deportation into the region of groups of Poles, Ukrainians and people from the Baltic states led to the establishment of other Christian – notably Catholic communities, while the deportation of adherents of forms of Christianity disapproved of by the Tsarist regime – such as the Russian ‘Staroveriy’ (old-believers) – also led to the establishment of minority Christian sects.

Colonisation Under the Tsars

As Morrison has emphasized, from the outset, the Turkestan region (corresponding to modern South and South-East Kazakhstan and the other four countries which make up modern-day Central Asia) was the most “colonial” of the Russian Empire’s lands. It was governed by military administrators under a series of special statutes that gave considerable autonomy to its Governor-Generals. These Governors and their staff were predominantly, though not exclusively, non-native, mainly ethnic Russians, together with Ukrainians, Baltic Germans, Poles and Georgians. By and large, the region remained effectively under military rule until 1917. Unlike other regions, it was not granted independent civilian courts, zemstva (provincial elected assemblies) nor, later, full representation in the State Duma. A further key colonial feature is that, by the late 19th century, the region had become a colony of Slavic settlement, as the peasant-migrants from European Russia, moved to settle supposedly “unoccupied” lands.

The Tsarist colonial period had both positive and negative effects. It is undoubtedly the case that Tsarist Russia sought to define itself as an outside power, with a civilizing mission. As one author notes, “[t]he distance created between Rus-
sia and Central Asia was therefore functional to the depiction of itself as higher, better, more civilised, progressive and, most of all, European state.\textsuperscript{81} It is clear that a number of positive impacts can be traced to this civilising mission: greater security and a reduction in conflict\textsuperscript{82}; the development of more effective agricultural techniques;\textsuperscript{83} the introduction of railroads; greater urbanization;\textsuperscript{84} and the expansion of formal education.\textsuperscript{85}

Nevertheless, by every meaningful criterion, Central Asia under the Tsars was a colony, politically and culturally subordinated to the Russian metropole.\textsuperscript{86} Tsarist colonial policy had significant long-term impacts on the ethnic and religious composition of the modern Central Asian states. First, and most obviously, in Kazakhstan in particular, but also elsewhere in the region, it resulted in a huge influx of ethnic Russian settlers, and settlers and deportees from other parts of the Tsarist empire. This in turn transformed both the ethnic and religious make-up of the region. Moreover, the Tsarist colonial approach entailed the segregation of society, with Orthodox ethnic Russians cast as superior to indigenous Muslims, who were classified as ‘inorodst’ (aliens), “subjects” but not equal citizens of the empire, resulting in the allocation of the most productive lands to migrants from other parts of the empire. This in turn sowed the seeds of the struggle for autonomy which unfolded from 1916 onwards.

## 4 The 1916 Rebellion and its Suppression

In the summer of 1916, a widespread rebellion against the Russian colonial regime erupted in the region. While the proximate cause of the uprising was a decree conscripting men to serve in the Tsarist army during World War One, it also had roots in colonial policies, in particular the seizure and resettlement of fertile lands.\textsuperscript{87} Beginning in Khujand and Jizzakh regions (in modern-day Tajikistan and Uzbekistan respectively), the rebellion spread to the Semirechie region which today spans southeast Kazakhstan and northern Kyrgyzstan\textsuperscript{88} and, in due course, also to the Turgai region in the northern Kazakh steppe, the Ferghana region and some Turkmen areas.\textsuperscript{89}

The rebellion was brutally suppressed, with more an estimated 150,000 people dying and 300,000 fleeing from Kyrgyzstan alone, in what the Kyrgyzstani people call the Urkun, or exodus. According to Morrison:

\begin{itemize}
\item \textsuperscript{81} See above, note 4, p. 829.
\item \textsuperscript{82} See above, note 29, p. 129.
\item \textsuperscript{83} See above, note 68.
\item \textsuperscript{84} See above, note 29, p. 129.
\item \textsuperscript{85} See above, note 16, p. 24.
\item \textsuperscript{86} See above, note 78, pp. 128-129.
\item \textsuperscript{88} Ibid.
\end{itemize}
In the aftermath of the revolt, Turkestan’s governor general, Aleksey Kuropatkin, issued a notorious decree that land was to be seized for settlement “wherever Russian blood was shed.” He proposed creating an ethnically-cleansed zone for Russian settlement on the best land in the region around Issyk-Kul, with Kyrgyz forcibly relocated to mountainous areas near Naryn. In effect, Kuropatkin wanted to impose what would have been a system of apartheid.  

The 1916 rebellion and its suppression is a source of controversy amongst scholars. Irrespective of its causes however, the rebellion and the state’s response helped to lay the foundations for efforts to secure autonomy and independence in the following years, as the Tsarist empire collapsed.

5 The Struggle for Autonomy (1917-1920)

It has been noted that, unlike other states and regions which have been subjected to colonization, Central Asia “experienced conquest, creation of the administrative system and its reforms, attempts at modernization, native revolts, a rise of Russo-centrism, and the collapse of the empire, in the course of only half a century”. Indeed, within fifty years of most parts of the region coming under Tsarist control, the twin revolutions of 1917 presented an unprecedented opportunity to those wishing to press for independence in the region.

For four years, starting immediately after the February 1917 Revolution, various groups in Central Asia sought to achieve autonomy and recognition of their political, religious, cultural rights. During this period, the autonomous Kazakh ‘Alash Orda’ government and the autonomous, multi-ethnic Kokand government were both established, while the already semi-independent khanates Bukhara and Khiva sought to preserve their independent status.

In response to the February Revolution, the first pan-Russian Muslim Congress was held in Moscow in May 1917, with delegates discussing two alternative approaches to achieving greater independence: seeking “cultural autonomy” within the Russian state, or seeking “geographical autonomy” within a loosely federated Russia. The majority of the participants voted in favor of “geographical autonomy”, something which was understood to mean freedom to organize their own parliament and executive, and independence in local financial and economic matters, as well as in legal, cultural, educational and religious affairs; settlement of land questions and the withdrawal of Russian troops were also seen as key.

On April 7, 1917, the Provisional Government replaced the Tsarist Governor
with a Provisional Executive Committee, made up of five Russians and four local Muslims.95 At the same time, however, Russian communists established the so-called Tashkent Soviet. Two rival – but both Russian-led – governments were operating in parallel. In reaction to this situation, the First Congress of Central Asian Muslims, was convened, confirming the primary aim agreed at the Moscow Conference: “geographical autonomy”96

Following the Bolshevik Revolution in November 1917, the Tashkent Soviet forcibly removed the Provisional Government and declared Soviet power throughout Central Asia. Furthermore, the Russian-led Soviet rejected a proposal from the Third Congress of Central Asian Muslims to form a regional council.97 Even in the environment of an egalitarian revolution, Russian workers denied equality to Central Asians. The Military continued as the ultimate arbiter of relations.98

In response to the seizure of power by the Soviet in Tashkent, the first Congress of Central Asian Muslims was convened in the city of Kokand and the Government of Autonomous Turkestan (Turkeston Mukhtoriyati) – centred in Kokand – was established. For the first time, the idea of a democratic parliamentary republic was announced and implemented in Central Asia.99 The founders of the Autonomy called for wide-ranging powers, but not full independence. The Autonomy declared its independence in all internal affairs, including finance, law, justice, and education, while reserving issues of defence, monetary policy, customs, and foreign relations remained to the central Russian authorities. Despite its roots in the Congress of Muslims, the Autonomy was multi-ethnic and broadly secular: one third of the seats in the legislature were allocated to non-Muslims, while the executive committee had representatives from various ethnic groups,100 and while Sharia law was recognised, Islam was not recognized as the official religion.101

The Autonomy was short-lived, however: lacking allies and resources, it was vulnerable militarily. By February 1918, the Tashkent Soviet and the Red Army had defeated the regime, resulting in an estimated 14,000 deaths, and devastation of Kokand itself.102

Elsewhere in the region, ethnic Kazakhs also made moves for greater autonomy, convening a series congresses in the wake of the February Revolution. In December, the Third Kazakh Congress in Orenburg proclaimed an autonomous government under the leadership of the Alash Party. Over the next six months, the “Alash Orda” government existed largely on paper, as most territory was under Bolshevik rule, but in June 1918, the group successfully expelled the Bolsheviks

96 See above, note 2, pp. 33-34.
98 See Sahadeo above, note 45, p. 2.
99 See above, note 95, p. 99.
100 See above, note 2, p. 38.
101 See above, note 95, p. 99.
from Semipalatinsk. The regime declared a military government, local councils and courts and announced that it would collect taxes.\textsuperscript{103}

Unlike the Kokand Autonomy, the Alash Orda was not defeated primarily through military means. A key strategy for the Bolshevik leadership in St Petersburg was to appeal to the “oppressed” peoples of the region. Although Bolshevism was initially considered an “alien” phenomenon, some groups in the region, particularly Jadids and Jadidism-inspired intellectuals, were attracted by the Bolshevik ideal.\textsuperscript{104} A series of pronouncements – including in particular the November 1917 Declaration promising “the right of people (nations) of Russia to secede and the freedom of Muslims to practice Islam”\textsuperscript{105} – appealed directly to those favouring greater autonomy. By 1919 many Jadids were responding positively to the Bolshevik call for cooperation. By March 1920 the Alash Orda government had ceased to resist the Bolsheviks, with some members joining Soviets and others abandoning politics altogether.\textsuperscript{106}

A number of factors drove this move from resistance to cooperation among the elites in the region. Roudik highlights the impact of the conflict on the population, citing estimates that “between 1917 and 1920, almost one-fourth of the native rural population died because of war, epidemics, and starvation”.\textsuperscript{107} It is also notable that the unpopularity of both the previous Provisional Government and the Tashkent Soviet over the handling of the 1916 rebellion and issues of land resettlement were factors in local support for the central Soviet regime.\textsuperscript{108}

It should also be noted that the central Soviet government wanted to demonstrate that it had “liberated” the region, thus differentiating itself from the Tsars, but also from the Provisional Government and the Tashkent Soviet.\textsuperscript{109} Indeed, according to Slezkine:

\begin{quote}
Lenin’s acceptance of the reality of nations and ‘national rights’ was one of the most uncompromising positions he ever took, his theory of good (‘oppressed-nations’) nationalism formed the conceptual foundation of the Soviet Union and [the] policy of compensatory ‘nation-building’ was a spec-
\end{quote}


\textsuperscript{105} Soviet Official Documents (October 1917-March 1918), V:1, Moscow, 1957, p. 113, available at: https://books.google.kz/books?id=rZrQDAAAQBAJ&pg=PA113&lpg=PA113&dq=ко+всем+трудящимся+мусульманам+россии+и+востока&source=bl&ots=-2rJXk4ou_&sig=Xmbb_lvP2tb0f9DeuX-R87023MW0&hl=kk&sa=X&ved=0ahUKEwjUnaaS48rUAhWhHxKHeyPBPs4ChDoAQhGMAU#v=onepage&q=ко%20всем%20трудящимся%20мусульманам%20россии%20и%20востока&f=false.

\textsuperscript{106} See above, note 103, pp. 282-283.

\textsuperscript{107} See above, note 95, p. 95.

\textsuperscript{108} See above, note 104.

Thus, both Jadids and Kazakh Alash-Orda activists “joined” with the Bolsheviks after Lenin announced an “Affirmative Action Nationality Policy” which they saw as a way to alleviate the hardships of the population. Though not sharing the regime’s ultimate aims, the Jadids in particular cooperated to pursue the common aim to reform the Central Asian societies.111

Nevertheless, despite the growth of domestic support for the central Soviet regime, the Red Army did not cease military activities. In September 1920, the Red Army captured Bukhara, ending the sovereignty of Bukharan Emirate, and it was only at the end of 1923 that the Soviet regime could exert control over the whole region. Even then, sporadic resistance to Soviet rule continued until 1928.112

6 Soviet Rule in Central Asia (1920-1991)

The Soviet period in Central Asian history can be seen as a period of grand “social engineering” projects undertaken by a Soviet regime aiming to create a new type of “modern people” and “modern society” in the region. This was true in particular during the period from the mid-1920s until the Nazi attack on the Soviet Union in 1941, an era which saw massive state and communist party campaigns with the ambition of building a new kind of civilisation in Central Asia and other parts of the Soviet Union.113 Indeed, as Khalid points out, under Soviet rule, the region underwent one of the most radical transitions to modernity anywhere in the world.114 The modernising project which drove this transition can be seen as having four key pillars: 1) Soviet nationality policy and the administrative division of the region; 2) Soviet cultural policy, including state atheism; 3) sedentarization and collectivization; 4) industrialization and urbanization. coupled with mass migration from other parts of the Soviet Union.

Soviet Nationality Policy

Unlike other European empires, the Tsarist empire did not collapse, but rather evolved – after 1923 – under a different ideology. One central means by which the Soviet regime was able to preserve the territory of the former Russian Empire was through introducing the concepts of “nationality” (by way of the census) and later “national republics” (through the cartographic division of the region).

112 See above, note 19, map 36.
113 See above, note 5, p. 8
According to Hirsch, in the 1920s:

[The Soviet regime used] the census and the map to facilitate a process that might be called “double assimilation”: the assimilation of diverse peoples into nationality categories and, simultaneously, the assimilation of nationally categorized groups into the Soviet state and society.\(^{115}\)

Thus, relations between Russians and non-Russians - and in general the rights of different ethnic and religious groups – became a key issue for the Soviet regime that was established on the ruins of the Russian Empire. In fact, the role of ethnic origin, which was conceptualized in Soviet terms as “nationality” came to be a distinctive feature of the Soviet system.\(^{116}\) The state pursued the development of national (ethnic) identity through "central policies relating to ethnicity, including questions of developing and controlling national cultures and languages, education, inter-ethnic relations, and the appointment of party and state cadres."\(^{117}\)

Soviet Nationality Policy during its first period was essentially affirmative, and as such, it attracted many Central Asian intellectuals interested in developing national identity.\(^{118}\) Thus, throughout the 1920s, many Jadids or Jadidism-inspired intellectuals played a crucial role in developing modern Central Asian languages, literature, arts and culture. For example, Sadreddin Ayni formed the modern Tajik grammar, Abdurrauf Fitrat modern Uzbek grammar, Akhmet Baytursunov modern Kazakh grammar.\(^{119}\)

It can be argued that through its nationality policy the Bolsheviks gained full control over Central Asia and during the first of half of 1920s peacefully neutralized opposition. In other words, the Bolsheviks adopted an "affirmative action" strategy in the first stage of their nationality policy to find a legitimacy in the eyes of non-Russian subjects of former Russian Empire (particularly the non-Russian native intelligentsia) and to gain ground in non-Russian territories.

**National Delimitation**

National delimitation – the process of establishing national political entities and the boundaries between them – was a key element of Soviet nationality policy during the “affirmative action” strategy period. After consolidating power, the Soviet authorities embarked on the unprecedented policy of establishing politi-

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118 See above, note 114, pp. 129-131.
cal-administrative entities based on ethnicity, leading scholars to argue that the Soviet Union was thus a maker of “nations.”120 Slezkine emphasises that “the Bolsheviks appeared to be the first state to institutionalise ethnoterritorial federalism, classify all citizens according to their biological nationalities and formally prescribed preferential treatment of certain ethnically defined populations.”121

The national delimitation policy established the Soviet federal state as a “quasi-federation of national Soviet republics named after their respective predominant population groups.”122 Crucially, in Central Asia, this approach ignored the reality that, for centuries, diverse ethnic groups had lived as interdependent (nomadic and sedentary) and intermingled (Turkic and Persian-speaking or speaking different but related dialects of either Turkic or Persian languages) communities. Until national delimitation, in much of Central Asia – with the notable exceptions of the steppe and desert areas populated by nomadic Kazakh and Turkmens ethnic groups respectively – the population was mixed in terms of language, culture and ethnic-tribal origin.123 Throughout the Transoxania (an area which roughly corresponds with modern-day Uzbekistan, the eastern parts of Turkmenistan, southern Kazakhstan and the western parts of Tajikistan), particularly in its urban and suburban areas, it was difficult to separate ethnic and language groups within mixed communities.124 Indeed, before national delimitation, the major markers of self-identification were either supra-ethnic – “Muslim” – or local – tribal.125

National delimitation did not begin immediately. Following the consolidation of power in the region, the Bolsheviks made few significant changes. Khiva (renamed Khorezm in 1920) and Bukhara continued to exist as autonomous entities – People’s Republics – until 1924. The former Tsarist region Turkestan was organized into the Turkestan Autonomous Soviet Socialist Republic (ASSR) as part of the Russian Soviet Federative Socialist Republic (RSFSR). The Kirgiz (Kazakh) Autonomous Soviet Socialist Republic (ASSR) was created in August 1920, though it was later renamed the Kazakh Autonomous Soviet Socialist Republic.126 In December 1922, the Union of Soviet Socialist Republics (USSR) was established, with the Turkestan and Kirghiz (Kazakh) ASSRs included as parts of the Russian Soviet Federated Socialist Republic (RSFSR).

Between 1924 and 1936, the region was reorganised, along ethnic lines, in what

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120 Including, for example Terry Martin, Ronald G. Suny, Yuri Slezkine and Adrienne Edgar.
121 See above, note 110, pp. 414-415.
123 Edgar, A. “Identities, Communities, and Nations in Central Asia: A Historical Perspective”, Presentation at a panel discussion held at the University of California, Berkeley, October 29, 2001, p. 2.
125 See for example, Shahrani, N. “From Tribe to Umma’: Comments on the Dynamics of Identity in Muslim Soviet Central Asia”, Central Asian Survey, 3, 1984, p. 29.
126 It was not until 1925 that Kazakhs were differentiated officially from the Kyrgyz. Kazakh or Qazaq was a self-appellation which was not recognized by the Tsarist or early Soviet administrations. Thus, before the 1920s all Kazakhs were referred to as “Kirgiz”, while the people known today as Kyrgyz were called “Kara-Kirgiz” or Dikokomenniy Kirgiz (wild-mountain Kirgiz), see for example, Chokan V., Master’s Thesis, Ankara, Bilkent University, Department of International Relations, 2004, p. 4.
127 See above, note 19, map 37.
was termed the national delimitation (natsional’noe razmezhevanie). Ethnically heterogeneous Khorezmian and Bukhara People’s Republics and the Turkestan ASSR were abolished. Then, five Soviet Socialist Republics (SSRs) were created: the Turkmen SSR, the Uzbek SSR, the Tajik SSR, the Kyrgyz SSR and the Kazakh SSR. In addition, the Karakalpak ASSR was created. Thus, the map of Central Asia which we know today largely came into being between 1924 and 1936. Each of the five SSRs was identified with a titular ethnic group, these groups defined largely by language.

National delimitation along ethnic lines was a strategy implemented throughout the Soviet Union, and indeed Central Asia was the last region where it was implemented. In Central Asia however, this was a seismic shift: before the Soviet national delimitation, no ethnic or national names were attached to territories and ethnic self-identification was different – more diverse and more fluid. Before delimitation, the population in the region was composed of host of ethnic groups, including Sarts, Uzbeks, Kipchaks, Kazakhs, Kyrgyz, Turcomans and many others, and these groups were not consistently defined, understood or delineated.

Nevertheless, it is too simplistic to conclude that the five states established through national delimitation were simply constructs imposed from outside. This explanation tends to ignore the role of local elites and the expectations of local people. As Morrison has argued:

[Delimitation] was not a top-down process driven by the Central Party organization in Moscow. In the 1920s the Soviet regime in Central Asia was fragile, and badly in need of local allies (...) new national units grew out of an often uneasy political alliance between local nationalist intellectuals and the Soviet state – most importantly the Jadids in Uzbekistan and the Alash Orda in Kazakhstan.

In other words, while the creation of the five states and their corresponding “nationalities” challenged the multi-ethnic, trans-cultural history of the region, it would be wrong to conclude that modern Central Asian “nationalities” were purely a Soviet invention and imposition. In reality, these nationalities were developed with the guidance and assent of at least of a sizeable part of the local intelligentsia. Haugen points out that, “in most cases, the new borders of

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128 See above, note 116, p. 2.
130 Ibid.
133 See above, note 131.
Central Asia were the result of real discussions and negotiations that involved members of the various Central Asian population groups as well as representatives of the central Soviet authorities”. Hirsch concludes that:

"[T]here is significant evidence that the delimitation was not just Moscow-driven but was in large part a collaborative effort between Moscow-based leaders and local (national) communist elites from former Turkestan, Bukhara, and Khorezm who had made common cause with the Bolsheviks in the early 1920s. Many local communists—and the Jadids in particular—saw "the nation" as a means for promoting economic and cultural modernization. Some of them helped shape the national delimitation of 1924 through their participation in the Territorial Committee of the Central Asian Bureau..."

Ideas of the nation and nationalism had arrived in Central Asia before the November Revolution and consolidation of Soviet power in Central Asia; indeed, such ideas were central to the worldview of the Jadids. Moreover, as Haugen notes, "although the designations such as 'Uzbek' or 'Turkmen', and so on, did not hold any prominent position in Central Asian society by the end of the 19th century, it does not necessarily imply that the entities established with those names 25 years later were artificial constructs".

Crucially, Haugen goes on to note that the SSRs created through national delimitation "corresponded to the historical and social realities of Central Asia to a much greater extent than has usually been recognized" largely because of the role of Central Asian actors. Morrison goes further, arguing that delimitation was primarily a response to local demand:

"[Delimitation was] a response to the strength of nationalist movements that had emerged in many parts of the former Russian empire during the period of the revolution and civil war. It led to a sincere, if perhaps misguided attempt to create nation-states where none had existed before, and this in turn was because both Lenin and Stalin believed that 'backward peoples' could never attain socialism unless it came within a nationalist framework."

Yet concluding that delimitation was not simply an imposition from above is not equivalent to ignoring its negative impacts. In particular, the policy of engaging with elites and the intelligentsia, and the desire to reflect popular nationalist movements gave the process a majoritarian impetus. Significant groups of

134 See above, note 116, p. 237.
135 See above, note 115, p. 162.
136 See above, note 114, p. 134.
137 See above, note 116, pp. 237-238.
138 Ibid., p. 237.
139 See above, note 131.
indigenous “minorities” remained within each republic, particularly in border regions such as the south of the Kyrgyz SSR, where ethno-linguistic groups had long lived alongside each other, and in multi-ethnic cities and urban areas such as Samarkand, Bukhara, Osh and Khujand.\textsuperscript{140}

\textit{Nationality Policy and the Creation of ‘Homo Soveticus’}

Alongside the pursuit of national delimitation and the creation of national (ethnic) identities, the Soviet nationality policy pursued a second – apparently contradictory – aim. Thus, while the Soviet regime elevated the ethnic identity of its citizens to the level of an unquestionable given, it also aimed to create a “Homo Soveticus” without any attachment to the particular ethnicity and religion.\textsuperscript{141}

Despite this apparent contradiction, the regime did not see any conflict: a nationality policy with the long-term aim of creating “Homo Soveticus” could also promote cultural and ethnic ‘samobytnost’ (uniqueness and diversity). Indeed, Lenin and his colleagues believed that only native teachers and cadres, using the native language, could spread anti-clerical and anti-capitalist ideas among their own people.\textsuperscript{142} Slezkine argues that Lenin believed that:

\textit{[T]he surest way to unity in content [communist ideals] was diversity in form [diverse languages]. Soviet state adopted the method of Ilminskiy, one of the leading Russian missionaries, which can be paraphrased as “only the mother tongue can truly set people on the path of Communism.”}\textsuperscript{143}

Thus, the Soviet policy accepted the use of “national” forms to promote a singular message of communism. Different Soviet “nationalities” were allowed to develop their own distinct cultures, but only within the Soviet framework.\textsuperscript{144} Thus, the Soviet state “accepted inner-Soviet nationalist contradictions and dissent on territories, divergent interpretations of the cultural heritage,”\textsuperscript{145} as a means to an end. Ultimately, the Soviet regime saw the establishment of such ethnic-based entities “as a way of achieving centralization and socialist modernization.”\textsuperscript{146} In another important sense, the Soviet regime needed to eliminate traditional loyalties by creating new loyalties – to nations established as Soviet Socialist Republics – in order to legitimise its control. By eliminating the traditional tribal bonds and reorganizing people into ethnic nationalities, the delimitation was, ultimately, intended to further the program of state-spon-

\begin{itemize}
\item \textsuperscript{141} See above, note 116, p. 235.
\item \textsuperscript{142} See above, note 110, pp. 417-418.
\item \textsuperscript{143} \textit{Ibid.}, p. 418.
\item \textsuperscript{145} \textit{Ibid.}, pp. 14 and 20.
\item \textsuperscript{146} See above, note 116, p. 234.
\end{itemize}
sored evolution. Nevertheless, the essential contradiction at the heart of Soviet policy cannot be ignored. On the one hand, there were serious efforts to establish ethno-federalism through indigenization (‘korennizatsiya’) and investment in native language education. On the other, there was a consistent drive to get the different “nations” to assimilate – particularly through “language Russification” – and even eventually to merge (“sliyaniye”) after drawing together (“sblijeniye”). While some scholars focus on the “affirmative” action strategy of Soviet policy, particularly in the 1920s, others emphasize the assimilatory nature (Russification) of Soviet policy. According to Gorenburg, this contradiction between “acknowledgement of national self-determination” and “aims to ensure gradual drawing together of nations for the purpose of their eventual merger” drove nationality policy throughout seventy years. Others have compared nationality policy to a pendulum, swinging between the affirmative, self-determination position, and a more authoritarian, assimilatory one.

Nationality Policy, Kinship and Clan

Soviet efforts to foster both ethno-national identities and affiliation to the Soviet ideal were undermined by the persistence of traditional kinship relations, which did not fade under the Soviet regime. While national delimitation and its promotion of ethnic identity (and the Soviet social engineering projects discussed below) were designed to discredit and replace traditional notions of collective identity, "sub-ethnic" identities not only survived, but were in some respects strengthened.

In some ways, traditional kin networks served to counteract the alienating effects of the bureaucratic state, while the more colonial elements of Soviet rule reinforced traditional kin and clan identities and networks. As Schatz explains, Soviet campaigns to root out traditional practices – including clans – from legitimate public space gave the people reason to hide their affiliations: Soviet attempts to refashion society strengthened bonds of kinship which were, of their nature, easily concealed. Moreover, underground kin networks provided a means of accessing scarce goods in the all-pervasive ‘gray market’ that developed under Soviet regime.

In addition to these unintended consequences of Soviet policies, Moscow’s indi-

147 See above, note 115, p. 164.
148 See for example, above note 109 and above note 110.
150 Ibid., pp. 301-2.
154 See above, note 23, p.xxii, 14.
155 Ibid., p.xxiii, 19.
rect rule in Central Asia served to institutionalise clan powerbases. Many key appointments in local administrative organs were overseen by local elites, who could easily favour their kin. Since local Central Asian ‘elites’ were extensively networked into their respective clans, government institutions became a power center within which “favored” clans could interact with and manipulate the Soviet state.

**The Soviet “Cultural Revolution”**

The Soviet Cultural Revolution coupled the development of mass literacy and the education system with the promotion of Communist ideology. Education was used as a means to promote and entrench ideology, including in particular by eliminating or denigrating alternative ideas, whether traditional, cultural, religious or political. As Abazov has noted:

![quote]

The manifestations of the cultural revolution ushered in by the Soviet regime were many and varied, ranging from the promotion of state atheism to the purging of native elites, the replacement of alphabets and even the emancipation of women. In all cases however, the common thread was a policy designed to disrupt the influence of social and cultural traditions, bonds and institutions, in order to increase commitment to the Soviet ideology.

**Religion Under the Soviet Regime**

In the immediate aftermath of the November 1917 Revolution, the Bolsheviks promoted the idea of a secular, but not atheistic or anti-religious state. While, an early decree, of 23 January 1918, “On the Separation of Church from State and

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156 See above, note 153, pp. 96-98.
157 Ibid., p. 99.
160 See above, note 109, p. 155.
School from Church”, proclaimed Soviet Russia a secular state and abolished the privileged role of the Russian Orthodox Church, in these years, the Bolsheviks were largely pragmatic in their policy on religion.

This policy of pragmatism was particularly true towards Islam in Central Asia, with the new authorities fearing that any perception of anti-Islamic policy in the region could only alienate the population from the fledgling Soviet authority. Indeed, Islam was even considered as an anti-imperialist bulwark, with some Communist leaders finding sympathy for what they saw as a religion of an oppressed and colonized people. At the same time, the Bolshevik strategy of co-opting the Jadids and other Central Asian intellectuals to foster their own aims in the region necessitated a degree of acceptance of Islam.

However, within a decade of the Revolution, the official Soviet discourse on religion turned towards the aggressive promotion of state atheism. The regime directed its policy towards the eventual construction of a society based purely on the atheistic notions of Marxism. Religion was presented as a threat to the Soviet state, indeed to the very foundations of Soviet ideology. A push to root out religion from both the public and private lives of Soviet citizens determined state-religion relations.

Starting in the mid-1920s, the initially relaxed – or at least lukewarm – attitude to Islam was abandoned, and the state began what amounted to a crusade against the faith. The authorities argued that Islam was “the most serious obstacle” to socialist modernisation and used this as justification to close Islamic educational, juridical and social institutions. The regime pursued a policy of total eliminating the role of Islam in the public sphere, and interfering with private beliefs and practices, through the pursuit of an aggressive anti-religious secularisation programme. Soviet attempts to undermine commitment to Islam in Central Asia began in 1925, with efforts to discredit Muslim clerics, though these attempts proved largely unsuccessful in establishing pro-Soviet sympathies among the local population. A more concerted Soviet assault against religion began in 1928. Islamic “mektebs” (elementary schools), “madrasas” (colleges) – which had numbered 15 000 before 1917 – were closed, as were and shari’a courts; all “waqfs” (Islamic endowment) properties were confiscated in 1930.

163 See above, note 112, p. 130.
164 Ibid, pp. 127-130.
166 Kehl-Bodrog, K., “Religion is not so strong here”: Muslim religious life in Khorezm after socialism, Berlin: Lit Verlag, 2008.
167 See above, note 5, p. 12.
The so-called “Hujum” (literally, “assault”) campaign – a campaign to “unveil” and change the attire of Muslim women – played a central role in efforts to counter Islam, particularly in Tajikistan and Uzbekistan (and elsewhere in the Soviet Union, such as Azerbaijan). The “Hujum” campaign began in March 1927, when Communist party activists in Tashkent launched it to mark International Women’s Day.169 The campaign was later co-opted by Soviet regime, which declared that it wanted to “liberate oppressed Central Asian women from the chains of feudal patriarchal society”; as this illustrates, women’s liberation was pursued as part of a strategy to find Soviet allies among the native Muslim population in Central Asia.170 As Massel has argued, the Soviet Communist party and Zhe notdel (Women’s Bureau) leaders considered all Muslim women in Central Asia to be victims of patriarchal oppression, thus functioning in Marxist terms as a “surrogate proletariat”171. By and large, the Soviet campaign of unveiling women was designed to spark immediate and fundamental changes to traditional life in the region, particularly in the realms of gender relations and family life,172 disrupting the influence of Islam.

In another move designed to weaken the influence of religion in society, the Soviet regime also established counter-religious organizations, the most important of which was “The League of the Militant Godless” (Soiuz Voinstvuiushchikh Bezbozhnikov, or SVB), established in 1925. Its message was to supplant religion with militant atheism under the slogan “The Struggle against Religion is a Struggle for Socialism!” The most active periods for the SVB were the years of Soviet Cultural Revolution in 1929–1934, and then again in 1938–1940.173

A further strategy pursued by the Soviet regime was to challenge the private observance of religious rites and practices. Thus, the Communist party tried to prevent the observance of traditional religious duties and rituals, holidays and sacred dates. The regime also forced Muslims to violate their religious precepts, making them breed pigs, eat pork or drink alcohol.174

Through all of these various efforts, Islam was largely driven from the public sphere: the physical manifestations of Islam, such as mosques and seminars, disappeared, and the Islamic elite was dismantled; the primary means for the transmission of Islamic knowledge were fundamentally damaged, if not destroyed.175

Yet after the start of the World War II, policy shifted once more, with a more permissive approach to the practice of religion in certain areas and by certain

169 See above, note 5, p. 12.
170 Ibid.
171 Ibid., pp. 11-12.
172 Ibid., p. 12.
173 See above, note 165, p. 36.
175 See above, note 157, p.2.
groups. At the same time, the Soviet emphasis on national, ethnic identity saw the emergence of strong secular, ethno-national identities among Central Asians, and the creation of new political and cultural elites firmly committed to such identities. Thus, Khaled has summarised the legacy of Soviet cultural revolution as the “de-Islamization of public life and appearance of Islam as nationality”.

Emancipation of Women

In parallel to the aforementioned Hujim campaigns, which had significant impacts on the lives of women in Central Asia, the Soviet authorities expanded education and basic literacy, focusing in particular on girls and women. The regime vigorously promoted female education and literacy classes, set quotas for female students at universities and even prosecuted men who did not allow their wives and daughters to attend schools. These policies are best understood as elements in a strategy to transform women into active citizens, breaking their allegiance to tradition and family, in an effort to persuade them to identify with a larger political community. Yet autonomous female political activity was discouraged or openly banned. In effect, the policy attempted to patriarchal control with state control.

Purges of ‘Anti-Soviet’ Groups

One key component of the so-called Cultural Revolution was the purging of local elites. The second wave of purges (after the first one perpetrated in 1917-1921) started in 1928 and targeted primarily the Jadid intellectuals, together with wealthy peasants (‘kulaks’) and nomads (‘bays’), religious figures and scholars. Those targeted were either sent to gulags, exiled or executed. A third purge, in 1937-8, targeted native communist leaders and communist cadres. Thus it was not only the local intelligentsia and leading community figures, but also local-Communist leaders, who were removed. According to statistics maintained by the Russian Federal Security Service, (the FSB, the successor of the KGB), between January 1935 and June 1941 19,840,000 individuals were arrested and seven million were executed by the government throughout the Soviet Union.
Replacement of Alphabets

Another element of the Cultural Revolution was the replacement of the native alphabet. The alphabets of Central Asian people were changed several times during the 20th century. The Soviet government initiated a switch from the Arabic script to the Latin alphabet in the 1920s. In 1939-40 however, the Cyrillic script was imposed, replacing the Latin alphabet in Soviet Central Asia. Both the Latin and the Cyrillic alphabets were forcibly introduced in an effort to break links with Islamic culture and with the ethnic affiliations.\(^{184}\)

Sedentarization and Collectivisation (1927-1932)

Although Central Asia had been under the direct control of the Tsarist Russian Empire for half a century before the establishment of the Soviet Union, the Tsarist regime did not challenge the traditional social norms in the region – including the nomadic way of life. Indeed, as discussed above, even the Kazakhs, who had been under the Russian rule much longer than any other Central Asian people, were able to continue to their traditional way of life. The Soviet position was far more “hands on” than their Tsarist predecessor, leading to a dramatic transformation of the social, economic and cultural structure of Central Asian societies.

Soviet ideologues were convinced that nomads could not be considered as members of the proletariat. Therefore, from 1927 onwards, the Soviet regime embarked on a policy of forcibly breaking down the centuries-old nomadic culture, forcibly sedentarising the people into collective farms (kolkhoz) with communal property. The government confiscated almost all livestock and crops.\(^{185}\)

This poor planning and implementation of the sedentarisation and collectivization policy was a social catastrophe. Local populations resisted, rebelled or emigrated. At least one third of the Kazakh population alone was lost to famine, related diseases and violence, while many thousands fled to China, Afghanistan or Iran or to other parts of the Soviet Union, such as Russia and Uzbekistan.\(^{186}\) For example, it is estimated that in the West Mangystau region, Soviet collectivization led to the loss of 70% of the population, as a result of deaths from starvation, uprisings or emigration to Iran.\(^{187}\) Kazakh experts assert that:

\[\text{Of a Kazakh population of approximately 4,120,000 in 1930,} \]
\[\text{some 1,750,000 had died from starvation, epidemics and execu-}\]

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tions by 1939—over 40 per cent of the entire population (this is in addition to deaths from natural causes); 200,000 fled into neighbouring countries and remained there ... and 453,000 took refuge in neighbouring Soviet republics, also remain there permanently.188

Thus, in Central Asia, the Soviet policy of collectivization – pursued throughout the USSR – had particular and profound effects. First, it challenged and overturned a traditional nomadic ways of life which had persisted for centuries, exacerbating the process of undermining traditional cultural and social norms which was being pursued through the Cultural Revolution policies. Second, the implementation of the policy resulted in massive loss of life, and the depopulation of certain parts of the region. Soviet power had thus created the foundations for the later Soviet myth that resettlement in the region was “populating” the “empty” desert.189

Industrialisation, Urbanisation and Immigration

The fourth pillar of the Soviet “modernization” project which impacted upon the ethnic and religious constitution of the Central Asia region under the Soviet Union was the industrialization of the region, and the immigration which accompanied it.

The Soviet authorities’ industrialisation programme began in the 1930s, in Kazakhstan. Pursued with determination, the industrialization policy produced its desired result: Central Asia became an integral part of the Soviet economy, with a high degree of economic specialization and a consequential dependence on other Soviet regions. The policy had even more profound consequences however, as many thousands of engineers and semi-skilled workers of Slavic origin from other parts of the Soviet Union came to the region to organize the socialist economy190. Between 1926 and 1939, an estimated 1.7 million people left European Russia to settle in Central Asia; 47 new cities and 230 workers’ colonies were established.191 Another feature of the industrialization programme was the implementation of grand infrastructure projects, such as the construction of the Great Fergana Canal, in 1939. The main purpose of this canal was to draw waters from the Syr-Darya River to irrigate the cotton fields in Fergana Valley, and thereby to achieve ‘Soviet cotton independence’. Projects such as this were used to foster affinity to the Soviet Union and the ethno-national state: they were advertised with a strong nationalistic message.192

189 See above, note 187, Guth, p.3.
191 Ibid., p.2
Mass Migration to Central Asia

Alongside the voluntary migration of Russian workers coming to the region as part of the industrialization programme, Central Asia experienced waves of forced immigration, as a result of the exile of “punished” ethnic groups to the region. Many parts of Kazakhstan, Northern Kyrgyzstan and the Fergana region of Uzbekistan were opened up for the resettlement of exiled “kulaks” (allegedly anti-Soviet wealthy peasants), alongside industrial specialists and workers.193

From 1929 until the mid-1950s, so-called “special settlements” (spetsposele-nie) were established for “kulaks” and other “anti-Soviet” groups.194 Between 1938 and 1945 those from nations branded as being “disloyal to Soviet system” were deported to the “emptied lands” of Central Asia: 172,000 Koreans were deported to the Kazakh and Uzbek SSRs; 1.2 million Germans were deported from the Volga Region; approximately 60,000 Meskhetian Turks were resettled from Georgia to the Ferghana Valley; and 40,000 Greeks were exiled from the Black Sea region, mainly to Kazakhstan and Uzbekistan.195 Thus, while the famine which accompanied the collectivization programme of the 1930s and the purges of intellectuals and elites resulted in the depopulation of the region, both voluntary and forced migration resulted in an influx of peoples from other parts of the Soviet Union. The result was a dramatic shift in the ethnic profile of Central Asia, particularly Kazakhstan and Northern Kyrgyzstan.

7 Conclusions

Since their independence from the Soviet Union, none of the Central Asian states has fully embraced its Soviet past. While many tend to view the Soviet period as one of colonization, considerable numbers, particularly older people, can display a sense of nostalgia about Soviet era. For those with a negative view, the USSR was a totalitarian state that stripped away freedoms, destroyed the lives of millions, crushed entire nations, and, in allowing no dissent, undermined ethnic, cultural and religious traditions.196 For scholars, classifying the Soviet experience in Central Asia presents a formidable challenge. Was the Soviet Union a traditional empire, or was it an “empire of nations”, a “federation”, an “affirmative action empire”, or perhaps even a “communal apartment”?197

The Soviet regime in Central Asia was a mass of contradictions: it combined the promotion of ethnic identity (misrepresented as “affirmative action”) with sub-
jugation; national self-determination with assimilation; empowerment for the disadvantaged with the punishment of entire social and ethnic groups. Soviet policy in the region included, on the one hand, the promotion of ethnic identity and on the other, the objective of creating ‘Homo Sovieticus’ without attachment to ethnicity or religion.

Moreover, while the purported ideology, objectives and rhetoric remained avowedly anti-imperial and modernist, in practice, many aspects of Soviet rule came to resemble other colonial empires. Thus, despite the fundamental differences between Soviet and the Tsarist policies in the region, the Soviet system still created asymmetrical center-periphery relations, with power remaining highly centralized. In its nationality policy, its policy on religion and culture and its programmes of collectivization and industrialization, the Soviet centre directly imposed a fundamentally new kind of society on the peoples of Central Asia. Together, the effects of these policies on the ethnic and religious composition of the Central Asian states, and on modern understandings of both ethnicity and religion, have been profound.

National delimitation along linguistic lines established the five “national republics” which would later emerge as independent nations. The delimitation process ignored the intermingling of ethno-linguistic groups and led to the creation of states with significant “reciprocal minorities”. The process of recognition and rehabilitation of the ethnic and religious minorities of the former Russian Empire in the early Soviet period has been erroneously qualified as “affirmative action”, seeking as it did to promote the advancement of minorities within the Soviet Union. However, as these minorities were, in their respective republics, majorities, it led to the elevation and promotion of “titular” ethnic groups above the non-titular, in particular through the promotion of “national” languages and other policies. Moreover, the creation of “national territories” along ethno-linguistic lines entrenched the marginalization of smaller, minority communities, such as the Lyuli, the Uighur and the Dungan.

The Soviet Cultural Revolution, with its focus on dismantling traditional social and cultural structures, had a massive impact on the practice of Islam. The Soviet attack on Islam under the banner of aggressive state atheism has had numerous lasting effects. Arguably the most widespread has been the tight regulation of religious practice and the promotion, to varying degrees in the different states, of a form of state-sanctioned Islam which is in conflict with “independent Muslims” who are more demonstrative in their faith.

Finally, mass migration into the region – both voluntary, in the context of industrialization, and involuntary, in the context of the exile of those considered a threat to the Soviet state – led to massive changes in the ethnic and religious make-up of the region, and thus the five states which emerged from the Soviet

199 See above, note 116, p. 236.
Union. The influx of Russian workers and exiles from other parts of the Soviet space resulted in the establishment of significant ethnic minority communities in many places in Central Asia. At the same time, these movements led to the establishment of Russian Orthodox Christianity as a significant religion in the region, particularly in Kazakhstan and Kyrgyzstan. Thus, while the motivations of the Soviet authorities may have been unclear, shifting or even plainly contradictory, one thing is clear. The roots of many contemporary patterns of ethnic and religious discrimination in the independent Central Asian republics – from the proscription of heterodox and so-called “non-traditional” Islamic groups, to the denial of educational and employment opportunities on the basis of language – have their roots in the Soviet past of these states.
Despite the many differences between them – including in respect of levels of religiosity and religious affiliation – state policy on religion in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan bears many similarities. All four states tightly regulate religious practice, through a legal regime which requires the registration of religious associations as a pre-condition for many aspects of religious life.

Pursuant to these registration regimes, each state has established significant legal restrictions on religious worship and practice; preaching and proselytization; import and dissemination of religious materials; clerical training; and lay education. Thus, the registration regime in each country has the effect of limiting freedom to manifest religion, in effect imposing conditions on the exercise of religious freedom. Unregistered religious activity is subject to administrative – and in some case criminal – sanction.

There is evidence that each of the states applies its registration requirements selectively, effectively sanctioning or permitting established “traditional religions” and banning or curtailing the activities of “foreign sects”. These two categories are ill-defined, and the distinction between “traditional” and “other” is not, as a rule, elaborated in law. Nevertheless, the distinction conditions the application of the rules framework. Moreover, the nature of the registration regimes established in each state is such that, even where applied equally, it disadvantages smaller and less well-established religious communities, which can struggle to meet the often complex and onerous requirements. Thus, the legal regime governing the registration of religious groups gives rise to both direct and indirect discrimination against groups practicing minority, non-traditional or heterodox faiths. These groups in turn experience the limitation – or outright denial – of their religious freedom, and can face legal sanction and other forms of discrimination as a result.

In each of the countries, the effect of the registration regime is to privilege historically long-standing (“traditional”) religious communities in the region. In all four countries, the dominant traditional religion is either “orthodox” Hanafi
Sunni Islam or a particular national manifestation of “cultural” or “ethnic” Islam\(^1\) promoted by the government. In Kazakhstan and Kyrgyzstan, the historic presence of a large Russian Orthodox Christian minority means that this too is a sanctioned and accepted religion. These state sanctioned religions do not experience problems in registration and – while remaining subject to comprehensive state regulation and monitoring – members of these religious groups are able to practice their religion freely, and do not, in general experience discrimination.

By contrast, as a result of either direct discrimination during the registration process, or as a result of failure to comply with requirements which are indirectly discriminatory in effect, other religious groups face significant restrictions on their freedom of religion, and are exposed to sanction and other forms of discrimination as a result. While the precise impacts vary between countries, across the four states, two broad categories can be discerned: (1) Heterodox (non-Sunni) Muslim communities, including both those with historic roots in the region, such as the Ahmadiis and Shiites, and contemporary Islamist revivalist and so-called radical Islamic groups such as Hizb-u-Tahrir, the Islamic Movement of Uzbekistan (IMU) and Tablighi Jamaat in Kyrgyzstan and Kazakhstan; and (2) Proselytising Christian Protestant denominations, especially those perceived to be “Western”, such as Baptists, Seventh Day Adventists, Jehovah’s Witnesses and Mormons.

The demarcation of authorised from unauthorised religious associations has broad societal effects. As noted, individuals involved in unauthorised religious practice can face legal sanction, commonly in the form of onerous fines. In addition, there is evidence of harassment and interference by police and other state bodies against members of unregistered religious communities. There is also evidence that the legal regime operates to legitimise religious discrimination by private actors.

The regulatory regime extends beyond registration, including also control and limitation of religious practice for duly registered organisations. Specialised religious affairs agencies in each state exercise multiple regulatory functions: registration, inspection, censorship and monitoring. These functions include, for example, compulsory review of religious literature prior to publication. Confessional self-regulating bodies for the limited number of large, duly registered religions communities (such as the Spiritual Administration of Muslims in Kyrgyzstan, for example), though nominally independent, have significant sway over government policy.\(^2\) Beyond the regulatory regime, there are further

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1 A complex outcome of Soviet policies, which blended the Muslim identity of Kyrgyz, Kazakhs and Uzbeks with their ethnonational identification. See, for further discussion: Hilgers, I. and Hann, C., *Why do Uzbeks have to be Muslims? Exploring religiosity in the Fergana valley*, LIT Verlag, Halle Studies in the Anthropology of Eurasia, 2009.

2 In Kyrgyzstan, for example, the Spiritual Administration of Muslims (DUM) lobbied the Commission of Religious Affairs to deny registration in 2009 to the Ahmadiyya community, although it had previously been registered, on the grounds that Ahmadiyya was a “threat to religious security”. See Equal Rights Trust, *Looking for Harmony: Addressing Discrimination and Inequality in Kyrgyzstan*, 18 December 2016, pp. 125-126, available at: http://www.equalrightstrust.org/ertdocumentbank/Kyrgyzstan_EN_0.pdf.
striking similarities between the four states in respect of the state policy on religious practice. Most obviously, all four states have – to varying degrees – used the threat of terrorism to justify limitations on freedom of religious practice. In Tajikistan and Uzbekistan in particular, significant numbers of minority religious groups have been banned as “extremist” despite a lack of credible evidence that they are involved in, or promote, violence or pose a threat to public safety.

Finally, there is ample evidence that the nature of the legislative regime on religious practice in these four states legitimises discrimination on the basis of religion or belief by private actors. This paper examines evidence of discrimination in both the workplace and in places of education against those seen as demonstrably or overtly religious, particularly women who wear the hijab in a way which is seen as inconsistent with the culture of the state, and men who wear beards.

Thus, this paper finds that – despite their many differences and specificities – there are remarkable similarities between patterns of religious discrimination in these four countries. It concludes that, in all four states, the strict regulatory regime is the wellspring for these patterns. In all countries, this framework permits limitations on freedom of religion which cannot be justified in light of the strict requirements of international law and gives rise to both direct and indirect discrimination against members of religious minority faiths. This framework also serves to legitimise discrimination by state and private actors in a range of settings, ranging from the application of fines – or even criminal penalties – for those found in breach of regulation requirements – to discrimination in employment for those considered to be too demonstrably religious.

1 Legal Framework on Religious Freedom and Non-Discrimination

Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan have all, in the years since they gained independence, acceded to the International Covenant on Civil and Political Rights (ICCPR)3 which protects both the right to freedom of religion and belief and the right to non-discrimination on grounds including religion.4 Moreover, the four states have not simply “ticked the box” in respect of ratification: all have accepted the individual communications mandate of the Human Rights Committee,5 and all have provided periodic reports to the Committee on

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4 Ibid., Articles 18, 2 and 26.
At the national level, all four states guarantee the rights to freedom of religion and to non-discrimination on grounds including religion in their respective constitutions. Article 22 of the Constitution of Kazakhstan\(^7\) guarantees freedom of conscience, subject only to the requirement that such freedom “must not specify or limit universal human and civil rights and responsibilities before the state”. Article 14 provides the right to equality and non-discrimination, which includes a right to non-discrimination on the basis of religion. The Constitutional Court has interpreted this Article as guaranteeing equality of rights and responsibilities of a person, equal protection of these rights by the state and equal responsibility of everyone before the law.\(^8\)

Article 32 of the Constitution of the Kyrgyz Republic\(^9\) guarantees “freedom of conscience and belief”, including the right to “confess individually or jointly with other persons any religion or not to confess a religion” and the right to “freely choose and have religious and other convictions”. Article 1 provides that Kyrgyzstan is a “secular” state. Article 7 provides that there is no state or mandatory religion and that no one can be forced to express his or her religious or other convictions or to renounce them. Article 7 also prohibits the involvement of religious associations and ministers of religion in the activity of state authorities. Article 16(2) provides that “[n]o one may be subject to discrimination on the basis of (...) convictions (...) and other status as well as other circumstances”.

In Tajikistan, the right to freedom of religion is guaranteed in Article 26 of the Constitution,\(^10\) which provides that “[e]ach person has the right independently to determine her or his religious preference, to practice any religion alone or in association with others or to practice no religion, and to participate in the performance of religious cults, rituals, and ceremonies”. The Constitution does not provide an express non-discrimination provision, but instead Article 17 provides a “guarantee the rights and liberties for every person irrespective of (...) religious beliefs”.

Article 18 of the Constitution of Uzbekistan\(^11\) guarantees of equality before the law and protection against all forms of discrimination, including on the basis

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\(^7\) Constitution of the Kyrgyz Republic, 2010, Article 22.


\(^9\) See above, note 7, Article 32.


of religions and convictions. Article 31 guarantees freedom of individuals “to profess or not to profess” any religion. Article 61 provides that religious associations are to be separate from the state and that the state is not to interfere in their activities. The Law on the Freedom of Conscience echoes and buttresses the constitutional provisions.\textsuperscript{12}

While the strong record of international participation by these states and the protections provided in their constitutions are welcome, the national legal frameworks are not without weaknesses. Thus, it is notable that in Kazakhstan, the constitution permits greater restriction of this right than is provided under the ICCPR, in two respects: first, Article 18(3) of the ICCPR permits limitation of the right to manifest religious beliefs, not the right to hold such beliefs; and second, Article 18(3) permits such limitation only as provided by law and only as necessary to "protect public safety, order, health, or morals or the fundamental rights and freedoms of others". Conversely, the absence of an explicit right to non-discrimination in the Constitution of Tajikistan – as opposed to the vague guarantee of equal enjoyment of rights and liberties – is inconsistent with international law. On the other hand, it should be noted that Uzbekistan has developed no constitutional jurisprudence interpreting, applying, and elaborating the constitutional guarantees of equality in the religious sphere.

Moreover, as will be noted below, other laws in these states – in particular laws on the regulation and registration of religious groups – have the effect of limiting freedom of religious practice, and of discriminating both directly and indirectly against minority religious groups. Thus, in each of the four states, the national legal framework reflects a deep inconsistency in a very real sense, the four states have yet to ensure that the rights provided by the international instruments to which they are party are guaranteed in their national law.

\section{2 Laws on the Regulation of Religious Associations}

\subsection*{Registration Requirements for Religious Associations}

One of the most significant drivers of religious discrimination in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan is the enforcement and application of comprehensive, mandatory and onerous state registration (and re-registration) requirements for religious associations. These registration requirements are set out in statutes governing religious activity, often euphemistically titled laws on the freedom of religion. These laws also set out categories of recognised religious association, and in some cases, also regulate other forms of religious entities and buildings.

Registration is the foundation of the regulatory regime for religious practice:

all four states permit only registered religious associations to operate on their territory, and unregistered religious activity and private religious practice and instruction are prohibited, giving rise to significant administrative or criminal penalties. Moreover, regulation is not limited to the registration of religious associations: as discussed in section 2.3, in many of the states in question, religious education, proselytization and the publication and dissemination of religious literature is also subject to licensing. As will be demonstrated, the effect of the registration regime is to disadvantage minority religions and sects and favour large established denominations.

Laws regulating the registration of religious associations in the four countries have three common features: first, the laws impose a requirement to evidence support for the registration of the association by a certain number of citizens; second, the laws impose a requirement to provide extensive documentary evidence related to the beliefs and functioning of the religious community; and third, each law provides a degree of discretion – either explicitly or implicitly – to those with the authority to make registration decisions. Nevertheless, in respect of both classes of requirement, there is significant variation between the states, with some imposing significantly more challenging conditions than others.

**Support for Registration of a Religious Association**

In respect of the first requirement – the need to evidence the support of a certain number of citizens for the establishment of a religious association – Kazakhstan has the most complex and onerous requirements. The Law of the Republic of Kazakhstan on Religious Activity and Religious Associations was passed in 2011 to create a framework for regulating the practice of religion in the country. Articles 12 to 19 are dedicated to the establishment, registration, reorganisation and liquidation of religious associations. The Law creates a three-tier registration procedure, classifying religious associations into local, regional, and national. At the local level, an application to register an association must include signatures from at least 50 citizens resident in the relevant oblast or city. At the regional level an application must include 500 signatures from at least two separate oblasts or cities, while at the national level, 5000 signatories are required, with at least 300 from each region, city of republican significance and Astana and branches throughout the country.

In the other states, the requirements are similar in nature, though less burdensome. The Law of the Kyrgyz Republic on the Freedom of Conscience and Religious Associations in the Kyrgyz Republic requires that associations applying

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14 Ibid., Article 12.
15 Ibid.
16 Ibid.
for registration must submit a document with the full personal details of at least 200 citizens indicating their support for the association. The Law also requires that the list of citizens be notarised and approved by a local authority in each location that it wishes to practice. In Uzbekistan, Article 11 of the Law on Freedom of Conscience and Religious Organisations provides that associations seeking registration must submit to the relevant authorities a notarised list of supporters containing the signatures of 100 Uzbekistani citizens over the age of 18.

Tajikistan maintains by far the least oppressive requirements in respect of the number of adherents of a religious belief who must be listed in order to register a religious association: Article 9(1) of the Law of the Republic of Tajikistan On Conscience and Religious Associations provides only that “the founders of religious associations may be at least 10 Tajik citizens that have common religion and reached the age of 18 years”. However, it is noteworthy that Article 11 of the Law also sets the minimum population which must reside in a given area before different classifications of mosque can be established; given that Tajikistan is a country where an estimated 98% of the population identify as Muslim, this is a significant interference with religious freedom.

**Documentary Evidence Required for Registration of a Religious Association**

There is also significant variation between the legal regimes in the states in respect of the requirement to provide documents in order to secure registration as a religious association. In Kazakhstan, the law requires applicants for registration as a local religious association to provide: a “charter” for the putative association, signed by the leader or head of the association; minutes of a constitutive meeting; list of the persons who founded the association; documents confirming the location of the association; printed materials setting out the history, fundamental beliefs and doctrine of the religion; documents confirming payment of charges for state registration; and documents relating to the election or appointment of the leader or head of the association. There are additional requirements for registration at the regional and national level, including in particular documentation of the individuals (500 and 5000 respectively) listed as supporting the registration application.

In Kyrgyzstan, the list of documents required for registration includes, in addition to the details of the 200 citizens supporting the application: the religious organisation’s charter; minutes from its initial meeting; information about the religious organisation and its practices; and information about the religious group’s history, attitude towards the family, marriage and the health of its adher-

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18 Ibid., Article 8, Para 3 and Article 10.
19 Ibid., Article 10, Para 2.
20 See above, note 12, Article 11.
22 See above, note 13, Article 15(3).
23 Ibid., Articles 15 and 16.
ents. The requirements are broadly similar for the establishment of a religious organisation in Tajikistan. It should be noted however that the Tajikistani law also permits the establishment of religious communities, which do not have legal status, and for which the documentary requirements are fewer.

In Uzbekistan, the Law requires the submission of many of the same documents as is required in the legislation in the other three countries. However, it also imposes one additional, and very significant requirement, in that applicants for registration must provide a statement consent from the state Committee for Religious Affairs.

Assessment and Decision on Registration Applications

The requirement in the Uzbekistani Law, that religious groups must secure consent from a state body responsible for religious affairs in order to be registered, reflects a wider pattern of assessment or evaluation of the beliefs of groups applying for registration which occurs to varying degrees in all states. In all four states, the statutory bodies responsible for the registration of religious associations may, and indeed have, refused such registration even where the objective requirements – documented support from a specified number of citizens, and submission of various items of supporting documentation – have been met. In each case, such refusal is based on a subjective assessment of theology or doctrine which concludes that the putative religious association is not socially acceptable.

For example, in Kazakhstan, Article 6 of the 2011 Law requires an applicant for registration as a religious association to pass a theological review conducted by a state-appointed “expert”. The Law states that the assessment should be based on the expert’s evaluation of the theological elements of the relevant religion, assessed through examination of the applicant’s “constituent documents as well as other religious documents, spiritual (religious) education programmes, religious information materials and religious items.” In December 2014, the state issued the Rules for Conducting Religious Expertise (the Rules), Article 13 of which states that experts make a recommendation, which relevant public bodies decide to follow, or not. In 2013, the government’s Research and Development and Analytical Centre for the Matters of Religions, issued a non-binding manual for the use of religious experts. The manual provides, among other things, that the religious assessment should include a determination of the “conformity of the value system of the examined religion to the important social values cus-
In both Tajikistan and Uzbekistan, statutory authorities have refused to register religious groups whose theology or ideology is considered unacceptable. However, it should be noted that in both countries, many such religious communities have been proscribed by public bodies acting under the auspices of anti-terror legislation, as discussed below. Once again, such decisions are made in the context of laws which provides significant discretion to public representatives, whose subjective assessment of the content of a particular religious faith is the key determinant of whether an organisation is considered “extremist”.  


36 Decree of the Supreme Court of the Kyrgyz Republic, Case No. AD-130/13, 10 July 2014.
Discriminatory Nature of Registration Regimes

In each of the four states under review, the registration regime for religious associations violates both the right to freedom of religion, and the right to non-discrimination.

It should be recalled that in all of the states under review, registration as a religious association is necessary in order to ensure the legality of many aspects of religious worship, observance, practice and teaching. Self-evidently therefore, registration requirements represent a limitation on the freedom to manifest religious belief, as protected by Article 18(1) of the ICCPR. In order to be permissible under the ICCPR therefore, the limitation must, in the words of Article 18(3), be strictly “necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others”.

The UN Human Rights Committee (HRC) has concluded that registration requirements which have the effect of limiting freedom of religion will be permissible in only exceptional circumstances, where the requirements of Article 18(3) are met. In Malakhovsky and Pikul v Belarus, the HRC considered a case where registration was refused to a religious organisation on the grounds that its legal address did not meet health and safety requirements necessary for performing religious ceremonies. The Committee noted that a requirement that religious premises satisfy health and safety requirements could be considered both necessary and proportionate, but concluded that the state had failed to demonstrate why the registration address in particular must satisfy this requirement, given that other premises could be found for religious ceremonies. The Committee’s finding underlines the fact that registration requirements which impact on the enjoyment of the rights protected by Article 18(1) must be strictly necessary to meet one of the purposes set out in Article 18(3). Strict necessity in turn requires both a strong degree of justification and the adoption of the least restrictive measures where possible.

It is difficult indeed to argue that the registration regimes in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan can meet the test of strict necessity to meet one of the purposes set out in Article 18(3). Indeed, in respect of the requirements to provide an extensive list of documents and to have a minimum membership, it is difficult to see how these can be even indirectly relevant to public order, safety, health or morality, or to the protection of the rights and freedoms of others. Indeed, in some cases where state agencies have defended such require-
ments, there has not been an attempt to indicate strict necessity. In Kazakhstan, for example, the Agency for Religious Affairs has sought to justify the 50-signatory threshold for local registration on the basis that “religious organisations which carried out no activities for years, such as the Brothers in Christ (Christadelphians), the Church of the Last Testament (Vissarions)” and others would fail to re-register, resulting in an “updating and systematisation of the country’s religious area”.42

Moreover, in their application, the registration regimes in all four states is such that freedom of religion is limited not uniformly, but in a way which limits freedom only for those who adhere to or profess certain religious beliefs. Evidence gathered by the Equal Rights Trust indicates that registration requirements are applied in ways which discriminate both directly and indirectly.

The nature of the registration regime in each country is such that it creates significant scope for the exercise of discretion, with officials in statutory authorities a subjective assessment of the values and beliefs of the religious group seeking registration. This creates space for direct discrimination against groups professing minority religious beliefs, including in particular (but not limited to) those who practice heterodox denominations of Islam, the predominant faith in all four countries.

In Kazakhstan, as discussed above, this assessment is explicit, in the form of the mandatory theological review by a designated religious “expert”. Imposing a requirement that religious groups “pass” a review aimed at assessing the substance of their theology and doctrine is manifestly inconsistent with Article 18 of the ICCPR. The Organization for Security and Co-operation in Europe (OSCE)’s Advisory Panel of Experts on Freedom of Religion or Belief has noted, any “substantive as opposed to formal review of the statute or charter of a religious organisation” is “impermissible”,43 while the Special Rapporteur on freedom of religion or belief has noted that “it cannot be the business of the State to enforce particular theological interpretations by measures of administrative law”.44 Substantive theological review as part of the registration process is particularly – though not exclusively – problematic in a context, such as that in Kazakhstan, where there is a majority religion which enjoys significant support from the state.

It is thus a matter of significant concern that a number of non-Hanafi Muslim groups have been de-registered in Kazakhstan. For example, the legal registration of the Din-Muhammad Tatar-Bashkir Mosque in Petropavlovsk was revoked after it expressed an intention to remain independent of the Hanafi school; its

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44 See above, note 33, Para 33.
re-registration application was rejected and a court ordered that the mosque be liquidated in 2013. All Ahmadiyya Muslim mosques were closed in 2012, with the Agency for Religious Affairs citing negative “expert opinions” from examiners.

In other states, where theological review is not an explicit aspect of the registration process, the practice of the statutory authorities responsible for registration of religious associations speaks for itself. As noted above, in Kyrgyzstan, the SCRA has repeatedly refused to register the Ahmadiyya community, despite the fact that it has met the procedural requirements for registration set out in the relevant Law. The Ahmadiyya community has appealed the refusal to register it as a religious association to the level of the Supreme Court and at each level, the decision of SCRA was upheld. In a 2014 judgment, the Supreme Court noted that the registration of the Ahmadiyya community might lead to “interfaith hostility” between Sunni Muslims and the Ahmadiyya creating a “real threat to public order and stability in the country”.

A very different case, also from Kyrgyzstan, illustrates the extent to which vague provisions in laws governing registration create scope for direct discrimination against minority religious groups. Between 2011 and 2013, several local authorities refused to “approve” the list of 200 signatories produced by congregations of Jehovah’s Witnesses seeking to register in their locality, as required by the Law on the Freedom of Confession and Religious Associations in the Kyrgyz Republic. The congregations in question appealed the refusal on a number of grounds. On appeal, the Constitutional Chamber held inter alia that the requirement for local authority approval of the list of supporters was unconstitutional, as the question was not an issue “of local significance”, and required the Jogorku Kenesh to amend the Law accordingly. As of 2016, however, the Law has not been amended and local authorities continue to apply the provision declared unconstitutional, refusing to register Jehovah’s Witnesses associations.

In Uzbekistan, as noted above, applicants to register a religious association must secure the consent of Committee for Religious Affairs. This requirement allows the state, in practice, to exert tight control over the types of religious association which are permitted. Human rights organisations have noted that religious groups may be denied registration status when viewed unfavourably by government. In Tajikistan, Jehovah’s Witnesses have not been legally registered since 2007, and the group is effectively banned. In addition, as in Uzbekistan, many religious communities have been proscribed by public bodies acting under the


46 Ibid.

47 See above, note 36.


49 Ashwin, S., Gender, State and Society in Soviet and Post-Soviet Russia, Routledge, 2000, p. 67.

auspices of anti-terror legislation, as discussed below.

In addition to enabling direct discrimination by those involved in administering the registration process, the requirements for registration themselves – the securing of a number of signatures, and the provision of documents – are indirectly discriminatory. While these requirements apply equally to all those seeking to establish a religious association, the conditions disproportionately disadvantage smaller, less well-established and heterodox organisations. Smaller groups can experience problems in securing the requisite number of signatures in support of their application for registration, particularly where there is a requirement to secure support in a small geographical area. Those practicing heterodox or otherwise stigmatised beliefs may also struggle to find sufficient supporters willing to record their support for the belief system. Moreover, smaller and less well-established groups, with fewer human and other resources, may experience practical and procedural difficulties in meeting the documentary requirements for registration.

In Kazakhstan, the sheer number of small religious groups which have been forced to close due to difficulties in registration underline the indirectly discriminatory impact which the registration process has on the right to practice religion on an equal basis with others. According to the Agency for Religious Affairs, as of October 2012, the 2011 Law resulted in the closure of more than 1,400 religious associations, 32% of those which existed before the Law came into force.51

In Kyrgyzstan, many religious minorities, such as Hare Krishna devotees and Catholics, simply cannot identify 200 members in some areas to support an application to register a religious association, meaning they are not able to register at all.52 Indeed, one expert advised the Equal Rights Trust that for many organisations, it is impossible to assemble 200 people together to support an application, as such an assembly is prohibited unless the relevant religious organisation is registered.53 Moreover, the requirement that the list of supporters be notarised and approved by a local authority in each location that it wishes to practice gives rise to a number of problems. In addition to the practical and administrative burden, individuals in some religious communities, such as the Baha’i are unwilling to be identified, meaning that a list of 200 citizens cannot be made.54 In late 2016, the Equal Rights Trust was advised that, since the new Law came into force in 2009, no religious organisation that is not Muslim or Russian Orthodox has been registered; indeed, since 2012, no new dioceses of the Rus-

53 See Equal Rights Trust, above, note 2.
54 See above, note 52.
sian Orthodox Church have been registered.55

3 Impacts of Non-Registration on Freedom of Religion

The denial of legal registration is discriminatory in itself, in that it disadvantages members of minority religious groups when compared with the followers of majority faiths, recognised by the state. Whether arising as a result of direct discrimination in application, or as a result of the indirectly discriminatory nature of the registration requirements themselves, the denial of registration has the effect of depriving the affected groups of the benefits of legal status, including legal capacity, access to social goods and services and state protection against interference and intrusion, including by third parties. This in turn puts at risk the equal enjoyment of the right to freedom of religion of those who practice the faiths in question.

However, of much greater concern is the fact that, in all four states, religious groups which are not duly registered are in breach of law, and as such, members of these groups may be subject to administrative and in some cases even criminal penalties if they engage in the practice of their faith. Across the four states, violation of the registration provisions set out in laws on religious associations is an offence under administrative law. Administrative violations typically carry monetary penalties and can result in bans on organisational activity.56 In Kazakhstan, religion offences can be subject to summary administrative procedures without any judicial intervention or process: while rank and file police officers are not authorised to impose on-the-spot fines heads of central internal affairs and local police forces have the power to impose fines.57

Article 489 of the Code of the Republic of Kazakhstan on Administrative Liability established an administrative offence for those found to be leading, participating in or financing the activity of an unregistered religious association. Article 490 sets out a range of violations of the Law of the Republic of Kazakhstan on Religious Activity and Religious Associations which result in administrative responsibility in the form of fines, temporary (typically three months) and permanent (in case of repetition following an administrative penalty) bans on organisational activity and administrative expulsion (deportation) from the country including the “conduct of religious rituals, ceremonies (or) meetings”; the “import, publication, issue, printing and (or) distribution of religious literature and other materials of religious content, objects of religious significance” and the construction of religious buildings.58 In addition to this prohibition, Article 490(3) imposes liability for the carrying out of missionary activity and proselytisation in any form without positive ‘state confessional expertise’ and

55 See Equal Rights Trust, above, note 2.
56 See, for example, Code of Administrative Offences of the Republic of Kazakhstan, Law No. 235 of 5 July 2014, Article 489 (9-11), 490(1, 4-5).
57 Ibid.
58 Ibid., Article 490(1).
due registration (or reregistration); penalties range from a fine of 300 Monthly Financial Indicators and a three-month ban on organisational activity. Article 490(7) provides that deportation is the penalty for leadership of a religious entity by a person, nominated by a foreign religious centre without agreement and similarly in case of the involvement of minors.\(^{59}\)

The Code of the Kyrgyz Republic on administrative liability also establishes administrative offences for violation of the registration procedure set out in Law of the Kyrgyz Republic on the Freedom of Conscience and Religious Associations in the Kyrgyz Republic. Article 395 on violation of legislation on religious association, establishes offences for, *inter alia*, non-registration of a religious group, and violation of rules related to the organisation and conduct of religious meetings, processions and other ceremonies, established by law resulting in a fine of up to 5 monthly accounting indicators (for 2016 this is set at KGS 100 (USD 1.47 GBP 1.14 EUR 1.31).

The Code of Administrative Violations of the Republic of Tajikistan establishes administrative liability for myriad violations of the Law of the Republic of Tajikistan On Conscience and Religious Associations, including: (1) on production, import, export, distribution of religious literature and items and materials of religious significance; (2) on citizens receiving religious education abroad; (3) on preaching and proselytising activity; and (4) on international relations by religious organisations. Article 474 and its 4 parts carry penalties in the form of fines ranging from 50 to 500 Accounting Indicators.\(^{60}\)

Uzbekistan imposes both administrative and criminal liability for violation of rules regarding registration of a religious association. Article 240 of the Code of the Republic of Uzbekistan on Administrative Liability creates an administrative offence for violation of legislation on religious organisations. Article 216.2 of the Criminal Code of Uzbekistan also establishes a criminal offence for the same violation.

In addition to prosecution and fines, both registered and unregistered religious groups are at risk of various forms of harassment by the police and other state bodies. In Kyrgyzstan, for example, the Trust spoke with a representative of the Ahmadiyya community who explained that as a consequence of the lack of legal registration, Ahmadiyya adherents experience harassment by police and other state bodies.\(^{61}\) There are also examples of police raids against members of the Jehovah’s Witnesses community, despite the aforementioned court decision in favour of the community. In August 2015, for example police in Osh raided a Jehovah’s Witness service, shouting at the attendees and beating one of the

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59 Ibid., Article 490(7).
men.\textsuperscript{62} Similarly, in Kazakhstan, the international non-governmental organisation Forum 18 has documented cases in which members of the New Life Pentecostal Church, were subject to repeated intimidation by state agents, even after the organisation had been reregistered by the authorities.\textsuperscript{63} Also in 2015, Forum 18 reported on the case of two female Jehovah’s Witnesses, Nadezhda Chesnokova and Olga Mishina, who were unable to overturn a fine imposed by police for talking to a pedestrian about their faith.\textsuperscript{64}

While in Kazakhstan and Kyrgyzstan, non-registration has resulted in significant numbers of individuals and groups being subjected to administrative penalties, the situation in Uzbekistan and Tajikistan is rather different. In these countries, many religious groups which are not legally registered are also proscribed under anti-terror or anti-extremist legislation, exposing adherents to even more severe penalties. The treatment of religious groups which are considered by international experts to be non-violent but are nevertheless banned as extremist groups is discussed below.

\section*{4 Regulation of Religious Associations}

The regulatory regime established in each country has discriminatory impacts beyond the straightforward denial of registration to minority religious groups. In all four countries, statutory bodies on religious affairs operate with wide-ranging powers. In common with the similarities between the registration regimes established by law in the four countries, the regulatory bodies in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan have broadly similar mandates, encompassing a wide range of policy-making, education and sensitisation and collaboration functions. In addition, these bodies have powers to monitor and regulate religious associations which are registered by law, to review and authorise various aspects of religious practice, and to close down religious associations which are unregistered or in breach of law.

In Kazakhstan, after serial reorganisations of the statutory religious affairs function, a new Ministry for Religious Affairs and Civil Society was established in September 2016 to which a Committee for Religious Affairs is subordinated.\textsuperscript{65} According to its statute it exercises functions including policy-making, legal drafting, monitoring and analysis, public education, review of religious materials, registration, consideration of citizen complaints, and law enforcement coordination.\textsuperscript{66} Kyrgyzstan has a SCRA subordinate to the President, which accord-
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According to its statute, most recently updated in November 2015, exercises sweeping functions, including notably: the “interruption” of activity of religious associations, which are causing damage or threatening the health, morals, rights and legal interests of citizens, bases of constitutional order, state security in accordance with legislation in force.67

The Law of the Republic of Tajikistan “On conscience and religious associations” establishes an authorised state body on religious affairs whose functions include the registration of religious associations, and the analysis of the activities of duly registered religious associations.68 In Uzbekistan, a Committee on Religious Affairs under the Cabinet of Ministers was established in March 1992, and continues to operate today.69 Among a wide range of tasks and functions, the Committee is empowered to licence religious educational establishments, and to provide expertise on products of a religious character, including both printed and electronic materials.70

One significant area in which these statutory bodies are empowered to exercise control is in the review religious materials, giving rise to the potential for discriminatory restriction on the publication, import and dissemination, of religious materials. The religious association laws in each of the four states require some or all literature and information materials containing religious content to undergo expert review prior to dissemination.71

Nevertheless, there is some variation in the nature and extent of the regulatory review. Thus, in Tajikistan, the law provides a blanket requirement for theological approval: Article 22(3) of the Law states that “[p]roduction, export, import, sale and distribution of religious literature, as well, and other religious articles and materials is allowed only after obtaining the conclusion of the state theological expertise”. By contrast, in Kazakhstan, the law imposes only two conditions: first, that religious literature may only be distributed in registered religious buildings, registered religious education facilities and premises specifically licensed to do so; second, that religious literature, other than for personal use, may be imported into the country only after obtaining approval after a theological examination. In practice, these requirements have been applied in ways which disadvantage minority religious groups: in 2012-13, for example, the 2012-13, the Agency for Religious Affairs refused permission to a Jehovah’s Witness community to import monthly magazines, on the basis that the magazines “discouraged secular education, encouraged family break-ups and contained positions that might outrage members of traditional Christian denominations”.72

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68 Ibid.
70 Ibid.
71 See above: note 13, Article 9; note 17, Article 22; note 21, Article 22; note 12, Article 19.
72 Ibid., Para 38.
Uzbekistan arguably presents the most extreme example: religious literature is effectively banned in homes and subject to seizure and destruction, with criminal charges against those harbouring it.73 Five-year sentences have been imposed for the possession of the Koran on a mobile phone.74

5 Laws on Extremism and Bans on Religious Organisations

Beyond the legal regime governing the registration and operation religious association, all four states maintain laws under which religious groups can be banned and their members prosecuted under criminal law, on the basis that the group espouses “extremist” views.75 Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan can all, to varying degrees, be termed “national security states”. Internationally, the region has been presented as being at the forefront of the so-called “war on terror”. At the domestic level, all four states have devoted significant resources and ceded authority, both policy and operational, to the security sector in efforts to reduce threats to the state posed by violent, insurgent, and terrorist organisation. Yet there is significant evidence that, while all states face genuine, legitimate threats, anti-terror laws have been applied in ways which discriminate against members of religious minority communities in ways which cannot be justified under international human rights law.

As noted above, Article 18(3) of the ICCPR permits restriction or limitation of the right to manifest a religion or belief, where this is prescribed by law and where it is necessary to protect, inter alia, public safety. Moreover, Article 20 of the ICCPR requires that “[a]ny propaganda for war” and “[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” shall be prohibited by law. The HRC has clarified that “[s]tates parties are under the obligation to enact laws to prohibit such acts.”.76 Such restrictions, however, are subject to limitations.77 Moreover, it should be

75 See, for example: Criminal Code Republic of Kazakhstan, Article 404 “Creation, leadership and participation in the activity of illegal social and other associations”; Criminal code of the Kyrgyz Republic, Article 299-1(2) “Organisation of activity of a social association and religious organisation or other organisation, in relation to which a court has made a decision about the liquidation or prohibition of activity in relation to the carrying out of extremist activity”; Criminal Code of Uzbekistan, Article 156 “Incitement of national, race, ethnic or religious enmity”, Article 159 “Infringement on the constitutional order of the Republic of Uzbekistan”, Article 244.1. “Preparation, storage, distribution or demonstration of materials, containing a threat to social security or social order”, and Article 244.2 “Creation, leadership, participation in religious, extremist, separatist, fundamentalist and other prohibited organisations.”
77 Ibid., Para 8; see above, note 33, Paras 60 and 70(e); Human Rights Council, Elimination of all forms of intolerance and of discrimination based on religion or belief, UN Doc. A/HRC/RES/6/37, 2007, Para 14; Human Rights Council, Freedom of religion or belief: mandate of the Special Rapporteur on freedom of religion or belief, UN Doc. A/HRC/RES/14/11, 2010, Para 4; UN General Assembly, Report submitted by the Special Rapporteur on freedom of religion or belief: elimination of all forms of religious intolerance, Mr. Abdelfattah Amor, UN Doc. A/58/296, 2003, Paras 134-135.
noted that the purposes for which the right to freedom of religion may be limited under Article 18(3) do not include “national security”; as such, justifications for imposing restrictions in order to combat terrorism must be derived strictly from concerns regarding public safety, or as means to prevent propaganda for war or incitement as proscribed under Article 20. As such, the HRC has criticised Kazakhstan for example, for its “broad formulation” of “extremist” offences and called for laws to be brought “into full compliance” with its international human rights obligations.\textsuperscript{78}

As this criticism of Kazakhstan indicates, while it may be legitimate to monitor and even to curtail the actions of groups that are inciting violence or terrorism,\textsuperscript{79} there is little question that all four states in the region have used the spectre of terrorism to justify legislation and policy which is in conflict with the right to freedom of religion. In Kazakhstan, for example, researchers working with the Equal Rights Trust were told that in April 2016, a representative from a government agency visited their child’s school to make a presentation on terrorism and extremism. She stated that in the presentation, the representative:

\textit{[P]laced our church “New Life” among sects (including the Church of “Jesus Christ” and “Jehovah’s Witnesses”). On one of the slides it was written: Destructive cults are those religious, neo-religious and other groups and organisations that have inflicted material, psychological or physical harm to society or its members or those that are suspected capable of inflicting such harm} \textsuperscript{80}

Tajikistan and Uzbekistan in particular have applied their criminal provisions on countering extremism to criminalise groups and individuals involved in peaceful religious observance, in ways which directly contradict their international human rights obligations. A statement by the organisation the Initiative Group of Independent Human Rights Defenders of Uzbekistan and others during Uzbekistan’s most recent Universal Periodic Review elucidates the problem:

\textit{[I]n its fight against “religious extremists,” the Uzbek authorities fail to make a distinction between individuals who endorse or advocate violence and individuals who practice their beliefs peacefully albeit outside strict state controls. Thus, Muslims believers are arrested and charged with “extremist” crimes because of non-violent religious activities such as praying outside state-sanctioned mosques, studying “non-approved”

\textsuperscript{78} HRC, Concluding observations on the second periodic report of Kazakhstan, CCPR/C/KAZ/CO/2, 9 August 2016, Para 13.
\textsuperscript{79} See above, note 75.
In Uzbekistan, a range of Criminal Code provisions\(^{82}\) have been used to penalise individuals pursuing independent religious belief which contradicts with the state-endorsed interpretation of Islam. According to Amnesty International, the largest numbers of prosecutions to date have been made under Article 159 “Attempts to overthrow the constitutional order of the Republic of Uzbekistan” and Article 244 of the Code, which prohibits both production and dissemination of materials containing a threat to public security and establishment, direction of or participation in religious extremist organisation.\(^{83}\) These and other provisions in the Criminal Code are broadly drafted, creating a risk that manifestation of religious belief is limited in ways which are not strictly necessary for the protection of public safety. Under Article 244\(^{1}\) of the Criminal Code, for example the “use of religion to violate civil concord” – a vague term which could encompass many expressions of heterodox religious belief – is subject to criminal penalty.

It should be noted that on 25 April 2016, the President of Uzbekistan signed the following amendments into law: Articles 244-1 and 244-2 have been harshened to allow: criminal prosecutions without a previous Administrative Code prosecution; increased jail terms, including between 15 and 20 years jail for involving people under 16 in “illegal” religious organisations; a ban on “production, storage or dissemination of the ideas or symbols of religious extremist or terrorist organisations”; and increased mass media, telecommunications and internet restrictions. In addition, the possibility of deportation for certain offences under the Code of Administrative Offences have also been extended. Prior to its amendment, Article 244-1 already punished: “Production, storage or dissemination of materials containing ideas of religious extremism, separatism, and fundamentalism, calls for pogroms or violent eviction, or aimed at creating panic among the population, as well as the use of religion for purposes of breach of civil concord, dissemination of calumnious and destabilising fabrications, and committing other acts aimed against the established rules of conduct in society and public order”.

According to Uzbekistani civil society organisations, by August 2015, over 12,000 individuals had been imprisoned on charges of religious extremism alone.\(^{84}\) Throughout 2016, human rights organisations such as Forum 18\(^{85}\) and

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Amnesty International documented other cases of arrest and imprisonment of religious dissidents on extremism charges. In June 2016, for example, Forum 18 documented the case of two men who were convicted of participation in a religious extremist organisation; the case focused, among other things, on the discovery of a CD containing a sermon on the Islamic Caliphate.

The authorities in Tajikistan have used laws including the Law of the Republic of Tajikistan on the Fight Against Extremism to prohibit and close down religious groups which are not considered by outside observers to pose a genuine threat to public safety or security. In its 2016 report on Tajikistan, the United States Commission on International Religious Freedom noted that the “Tajik government’s list of groups banned as extremist includes non-violent religiously-linked groups such as Hizb ut-Tahrir, Jamaat Tabligh, the Muslim Brotherhood, and Group 24 (a Tajik political opposition group)."

The most well-known case of a religious organisation being banned under anti-extremism legislation in Tajikistan is that of the Islamic Renaissance Party, a registered political party which had been granted special status under the peace settlement reached after the country’s long civil war. In August 2015, following repeated public attacks by the State Committee for Religious Affairs in the lead up to national elections, the Justice Ministry formally banned the party, giving it until 7 September 2015 to cease all activities. Following the ban, over a hundred IRPT members were arrested; while many were released, 13 leading members were placed on trial, with the two deputy leaders sentenced to life in prison, while 11 others received lengthy prison sentences.

There is concerning evidence that states in the region are seeking to further increase sanctions in this area. In December 2016 Kazakhstan adopted a new “Law on Amendments and Additions to Various Laws on Questions of Countering Extremism and Terrorism,” drafted by the security service (KNB), which introduces new sanctions to the criminal and administrative codes. In the same year, Articles 2441 and 2442 of the Criminal Code of Uzbekistan were amended, increasing prospective jail terms.

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90 Ibid.
6 Discrimination by Non-State Actors

In all four countries, the regulatory framework described above contributes to the normalisation and legitimisation of religious discrimination by private actors, despite the legal guarantees of non-discrimination provided in national constitutions. Research by the Equal Rights Trust in all four states found examples of discrimination in education and employment, affecting primarily demonstrably devout Muslims, in particular men who wear beards and women wearing the hijab.

Discrimination in Education

Examples of direct discrimination against girls who wear the hijab and other forms of attire, which are seen as demonstrating a belief in Islam, are common in all four countries. Testimony given to Equal Rights Trust researchers paints a remarkably similar picture in all four states. For example, in Kazakhstan, one woman told researchers for the Equal Rights Trust’s partner organisation, the Kazakhstan International Bureau of Human Rights and Rule of Law that the authorities of her daughter’s school had “demanded that she did not wear a long dress and a headscarf (and) the director of the school gave verbal instructions not to admit her to classes. Similarly, in Kyrgyzstan, one interviewee stated that: “[s]chool children were not allowed to go to the school in Ak-Talaa district because they were wearing Muslim hijab. Also, the administration of a college puts pressure [on those] who wear hijab”.93 However, it should be noted that in Kyrgyzstan, our researchers also received evidence that the authorities did investigate such cases, and that in at least one case, a school official was fired, while the girls in question were readmitted to the school.94

In Tajikistan, Forum 18 has reported that in March 2015, “President Rahmon (...) condemned women wearing “uncharacteristic” dress and state TV showed footage of police stopping 10 women in hijabs on the street, claiming they were prostitutes”. While the Deputy Head of the State Committee for Religious Affairs later denied that there was any formal ban on wearing the hijab, testimony gathered by Equal Rights Trust researchers contradicts this account. A student from Dushanbe told our researchers that:

[T]he Education Ministry published a Decree about the uniform for university students in Tajikistan with the aim to restrict the wearing of Muslim clothes at the University. In accordance with this Decree the students should wear black office suit and trousers, heels and national clothes, however they cannot wear religious clothes. When these rules came into force, every morning there was a commission at the University entrance and checked

94 Ibid., citing Equal Rights Trust interview with Myskal and Bakhtiyar, Talas, 23 June 2014.
the clothes of every student; those who were wearing religious clothes were not admitted to the premises.⁹⁵

In Uzbekistan, the Law on Freedom of Conscience and Religious Organisations prohibits the wearing of religious clothing in public places, including places of education;⁹⁶ this is supported by an administrative offence under Article 184¹ of the Code of Administrative Responsibility.⁹⁷ In practice, the application of these provisions has disproportionately disadvantaged women and girls who wear the hijab, one of the most visible forms of religious attire. The Equal Rights Trust’s researchers in the country recorded testimony from women whose daughters had been told to stop wearing the hijab or face expulsion from the school. One woman stated that:

[O]ne day the school director called me to the school. The director and my daughter’s teacher yelled at me, asking why I was forcing my child to wear the headscarf. The director asked me if I was an extremist. I was stunned, and cried. I noticed that the teacher was wearing a Christian cross on her neck and asked, “if you are a believer, why can’t my daughter be?” The teacher said that wearing any type of jewellery with a cross or moon is not prohibited; only the headscarf. Afterwards, the school director threatened me, saying that he was going to call to the SNB as I am forcing my children into religion. I was terrified as I knew what they could do. I decided not to confront them and agreed that my daughter would come to school without it.⁹⁸

Discrimination in Employment

As in the sphere of education, so in the area of employment, research by the Equal Rights Trust found examples of direct discrimination against Muslims considered more overtly and demonstrably religious in all four countries under review, with religious attire again being the principle basis for unfavourable treatment.

Those interviewed in Kyrgyzstan gave examples of direct discrimination against Muslim men who have beards and women who wear hijabs. In Talas, Baktygul, a focus group participant recounted the case of a man who was told that he would only be accepted for a job in a bank if he shaved his beard,⁹⁹ while another respondent detailed the case of a friend who was told to remove her headscarf if

⁹⁵ Equal Rights Trust interview with B.R, Dushanbe, Tajikistan, 4 December 2016.
⁹⁶ See above, note 12, Article 11 and Article 14.
⁹⁹ See above, note 93, citing Equal Rights Trust interview with Baktygul, Talas, 23 June 2014.
she was to continue working in a kindergarten. One focus group respondent in Naryn stated simply that: “[if a Muslim] wants to get a position at a state or local body he is told how can he become a deputy of district head? It is said in order not to hire a Muslim”. Our researchers also recorded cases of harassment by other employees in the workplace, and of failure to accommodate the needs of Muslims requesting time off to attend prayers.

In Tajikistan, Equal Rights Trust researchers also recorded cases of harassment and direct discrimination against Muslims considered more overtly and demonstrably religious. One woman recounted the impact of the shift in government policy regarding places of education, as follows:

[I]n 2014 all the teachers had a meeting and we were all told that school and university teachers could not wear religious clothes. But due to the fact that our school was private and we had a very good atmosphere, the administration was not demanding a lot from us at the beginning. However, a special commission visited school to check whether the new rules were adhered to and the teachers were wearing the clothes accordingly. If the members of the commission saw the religious attire, the teachers were sacked immediately. A lot of women teachers had to leave the job. Those who did not want to lose the job had to take off the scarves when the commission will visit. A lot of very good teachers were sacked. Finally, religious teachers on the one hand and the regional education council on the other hand reached an agreement that women would be allowed to cover their head in the traditional Tajik way – with the scarf (that covers head but does not cover neck) but not as the Muslim headscarf (that covers head and neck and leaves open only the face oval).

In another case, an interviewee in Gafurovsky district, Sogdiysky region stated that she stopped helping her husband at their market stall, following harassment by local authority representatives who “explained that I should stop wearing arab style clothes and wear secular clothes”.

Equal Rights Trust researchers recorded similar testimonies in Uzbekistan, where several women explained how wearing a long headscarf that covers the head and neck, rather than the shorter headscarf, which is traditionally worn in Uzbekistan can result in dismissal or other forms of discrimination. One woman, E., was forced to resign from her job because she refused to remove her hijab;

100 Ibid., citing Equal Rights Trust interview with Farida, Naryn, 25 June 2014.
102 Ibid., citing Equal Rights Trust focus group, Batken, 18 June 2014, and Equal Rights Trust interview with Irsalat, Batken, 18 June 2014.
104 Equal Rights Trust interview with SF, Khudzhand, Tajikistan, 4 December 2016.
105 Equal Rights Trust interview with SM, Tajikistan, 7 December 2016.
the only reason she was not fired being that the law protects women with children under the age of three from dismissal. In another case, a woman stated that she had been subject to harassment by tax inspectors at the small business she owned, because of her decision to start wearing the longer headscarf.

7 Regional Patterns of Religious Discrimination

Through this review of the main dimensions of religious discrimination in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, a number of cross-cutting patterns emerge:

Old and New

The principal patterns of religious discrimination in Central Asia today can only be properly appreciated and fully understood from a historical perspective as a continuation and adaption of the comprehensive Soviet state regulation of religious expression, personnel and activity. Soviet control of religion in the four states restricted ‘traditional’ religious communities (Orthodoxy and Islam), limiting their sphere of influence and ensuring their compliance and compatibility with Soviet state policy and doctrine, while forbidding and repressing the manifestation of any ‘non-traditional’, Western or foreign religious groups. The same pattern persists across post-Soviet Central Asia today, albeit fortified in the adaptation to changed circumstances in which a now significantly expanded range of non-traditional, politicised Muslim movements and Western evangelical groups exist and can take advantage of the globalised circulation of ideas, communications, funds, and people.

The four Central Asian states have inherited a set of tools for containing the threat which religion was perceived to pose to an earlier security-obsessed and totalitarian state. These tools were devised, honed, and perfected for a context in which the state aggressively promoted and imposed an avowedly atheist, Marxist-Leninist ideology to which religious belief of any sort was a rival faith for the allegiance of the population and religious association of any sort was a rival authority. A new official nationalism in these states, while often incorporating the pre-eminence of Islamic culture (rather than the Islamic faith per se), still necessitates a defence against perceived religious challenge.

Regulation and its Discriminatory Impacts

As demonstrated, these four states exhibit a common set of issues which arise in the context of markedly similar systems of religious regulation. All have retained a Soviet-derived apparatus for the close state control and supervision of religion, consisting of a scheme of mandatory state registration of religious organisations

106 See above, note 100, citing Equal Rights Trust interview with E., a Muslim woman, November 2014, Tashkent.
107 Ibid., citing Equal Rights Trust interview with A., a Muslim woman, November 2014, Tashkent.
and of regulation of religious affairs, including the establishment of houses of worship, religious services, materials, literature and ritual objects, education and missionary activity. Statutory bodies in each country have been established to discharge these varied regulatory functions. Violations of the religious regulations are subject to administrative and criminal penalties, ranging from fines and injunctions to lengthy custodial sentences.

In each country, the regulatory system not only operates to curb religious expression generally, but also to discriminate against adherents of non-traditional religions in particular, principally protestant sects and non-mainstream Islamic groups. Discrimination takes the form of refusal to register on the basis of the selective or arbitrary enforcement of registration requirements, and also through the apparently equal application of rules which disproportionately disadvantage minority and non-traditional organisations. Non-registration exposes adherents of unregistered religious associations to harassment, administrative sanctions and criminal prosecution. Discrimination on the basis of religion in respect of housing, employment, education, and access to social services is a further consequence of this regulatory environment, in which minority or non-traditional faiths are delegitimised in the public mind.

The comprehensive remit of the state statutory bodies for religion, in conjunction with the comprehensive regulatory regime set forth in the laws on religion, entails continuing close state supervision and control of the affairs of religious associations post-registration. It encompasses various aspects of quotidian religious life, communal and individual, as of religious actors, lay and clerical. The import, publication, dissemination, and sale of religious materials, including scriptures; the observance of religious rites and services; the activities of clergy in and out of pulpits; the construction of ecclesiastical premises (mosques, churches, religious schools); travel across borders for religious purposes (study, Haj pilgrims exiting the states and foreign clerics entering); religious instruction for pupils or students at primary, secondary, and tertiary stages and religious training for seminarians—all of these are objects both of state regulation and its selective or discriminatory enforcement.

At every stage of the regulatory process, the scope of discretion allowed the relevant state officials, whether judges, national security investigators, law enforcement personnel, university rectors or bureaucrats, in decision-making with respect to these matters, is broad and the resulting decisions are often arbitrary or discriminatory.

Securitisation

In each state, the regulation of religious affairs has also become a national security issue, as governments have passed increasingly restrictive laws in the name of combating terrorism and extremism. Special laws against terrorism and extremism in the four countries, buttressed by corresponding new or expanded articles in the criminal codes have been introduced in the wake of the post-9/11 ‘War on Terror’ and the emergence of Central Asia as a critical strategic the-
atre of counter-terror operations. The security services have come to play an enlarged role.

The authorities in the four states have treated an increasingly wide range of religious activity as falling under prohibited categories. The actual and purported vulnerabilities of states in the region to terrorism – proximity to Afghanistan, porous borders allowing movement of terrorist groups, availability as staging area and recruitment pool for terrorist groups, for example – have been eagerly endorsed and reinforced by the Central Asian leaderships anxious to preserve their hold on power. The counter terror and counter-extremism laws have become both surgical and blunt instruments of religious discrimination. Overbroad or imprecise definitions of ‘terrorist’ and ‘extremist’ have effectively criminalised membership in or affiliation with a range of non-desirable or unsanctioned religious associations, usually Islamist.

Internal Contradictions

Thus, in all four states, the legal framework on freedom of religion and non-discrimination has contradiction at its heart. The states profess to respect religious freedom and non-discrimination; they have willingly assumed international treaty obligations, and have constitutional protections which provide clear (if imperfect) guarantees for both rights. However, there remains a fundamental and unresolved contradiction between the assertion of rights of freedom of conscience and non-discrimination, on the one hand, and the restrictive statutory and regulatory regime established under laws on “religious freedom” on the other. Such laws impose strict limits on the exercise of religious freedom, and are applied in ways which discriminatorily deny such freedom to those from minority, heterodox or non-traditional religious groups. In so doing, they render the constitutional guarantees of religious freedom and non-discrimination essentially meaningless.

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3 DISCRIMINATION ON THE BASIS OF ETHNICITY AND LANGUAGE IN KAZAKHSTAN, KYRGYZSTAN, TAJIKISTAN AND UZBEKISTAN

Victoria Catliff

Discrimination on the basis of ethnicity and language has emerged as a distinctive issue in post-Soviet Central Asia, but one which has Soviet roots and origins. Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan each have their own experiences and problems of ethnic and linguistic discrimination. This is hardly surprising: the ethnic make-up of the states varies considerably, and there are significant differences in both historic and contemporary politics and policy on ethnicity. Nevertheless, there are marked similarities between the states in the ways in which ethnic and linguistic discrimination manifests. The aim of this paper is to identify patterns of discrimination which are transnational, or regional, in nature, in the hope of identifying common causes and origins, and identifying potential solutions and best practices.

Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan have all inherited ethnically diverse demographics, notwithstanding their mono-ethnic names. While all were explicitly created as ‘ethno-stans’ - that is designated ethnic homelands - under the Soviet regime, they each contain sizeable minority communities of diverse origin. Kazakhstan is home to more than 140 peoples and ethnic groups, including Kazakhs (63 %), Russians (24 %), Ukrainians (2.1 %), Uzbeks (2.9 %), Uighurs (1.4 %), Tatars (1.3 %) and Germans (1.1 %).1 Kyrgyzstan’s population of approximately 5.7 million consists of Kyrgyz (69 %), Uzbeks (14 %), Russians (9 %), Uighurs (1 %), Dungans (1 %), and other ethnic groups (6 %).2 Tajikistan’s population of 8.3 million people includes Tajiks (79.9 per cent), Uzbeks (15.3 %), Russians (1.1 %) and Turkmens (0.3 %).3

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1 United Nations International Human Rights Instruments, Core document forming part of the reports of States parties - Kazakhstan, UN Doc. HRI/CORE/KAZ/2012, 19 September 2012, Para 11.
3 United Nations International Human Rights Instruments, Core document forming part of the reports of States parties - Tajikistan UN Doc. HRI/CORE/1/Add.128, 18 February 2004, Para 3.
Legacies of Division

discrimination on the basis of ethnicity and language in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan

The demographic data illustrates the complexity of interethnic relations in the Central Asian states. Thus, it is noteworthy that – despite the ethnic names of the states – no more than 4 in every 5 people in any state identifies as a member of the “titular” ethnic group. Indeed, in Kazakhstan, less than two thirds of the population is ethnic Kazakh. It is also noteworthy that, with the exception of Uzbekistan, each of the states is home to at least one large ethnic minority community: Kazakhstan again is the most extreme example, with more than a quarter of the population identified as ethnic Russian, but both Tajikistan and Kyrgyzstan are also home to one large minority group. Uzbekistan is the outlier in this respect, though even here, there are four significant minority populations. Finally, the data points to another particularity of the region: each state is home to at least one “reciprocal minority” – that is, an ethnic group which is the titular ethnic group of a neighbouring state. Moreover, more than 25 years after the fall of the Soviet Union, there are significant ethnic Russian populations in all states other than Tajikistan.

As will be discussed below, the policies of outside powers – first the Tsars, and later the Soviet Union – were central to shaping the modern ethnic make up of the Central Asian states. Moreover, the legacy of Soviet policies in particular continue to shape understanding of ethnicity, and experiences of discrimination and disadvantage. All four states have inherited a distinctly Soviet concept of ethnicity, which signifies a juridified (formalised, legally cognisable) identity, rather than a concept of ethnicity which is a matter of birth or choice or culture. The understanding of nationality as a juridical status perpetuates. Insofar as ethnic identity and primary language (“mother tongue”) typically, though not universally, coincide across the region, patterns of ethnic and linguistic discrimination tend to reinforce or support one another. Discrimination against ethnic Tajiks in Uzbekistan, for example, is buttressed by, and indeed can take the primary form of, limitations on the use of the Tajik language in education and the media. This same pattern is found in Kyrgyzstan regarding Uzbek language education and the very limited availability of Uzbek language media post 2010.

The primary patterns of discrimination across the region operate in favour titular ethnic groups – the bearers of the nominal (titular) ethnicity in each state: Kazakhs in Kazakhstan, Kyrgyz in Kyrgyzstan, Tajiks in Tajikistan and Uzbeks in Uzbekistan – and disadvantage “non-titulars”, a general term encompassing 1) titular ethnicities of the neighbouring Central Asian states – “reciprocal minorities”, 2) ethnic Russians, and 3) other smaller minorities such as Lyuli, Uighurs,

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Dungan. The severity and nature of patterns of discrimination vary significantly with the target ethnic/linguistic communities and with the policies of the states, which exhibit significant differences despite the presence of common patterns. Nonetheless, characteristic regional forms of discrimination on the grounds of ethnicity and language are readily discerned in the four states across both public and private sectors.

Discrimination in the public sector typically involves representation and participation in administrative and political posts, as well as employment in public institutions like schools. It can also assume the form of the invidious or discriminatory operation of the justice system (law enforcement, prosecution, courts, and prisons): minority communities can be the object of disproportionate police attention; adverse judicial decisions; and an aversion to bringing prosecutions or unwillingness to enforce those judicial decisions which do issue from the courts. In the private sector, discrimination occurs primarily in employment and housing, but has also take the form of hate crimes and organised inter-ethnic violence (rioting), most notoriously the ethnic violence in Southern Kyrgyzstan which disproportionately affected ethnic Uzbeks in 1990 and 2010. Public and private sector forms of discrimination need not be sharply demarcated and can be overlapping and mutually reinforcing: discriminatory treatment by the authorities can serve as a license for discriminatory treatment by private actors.

Unlike discrimination on religious grounds, discriminatory practices on the basis of ethnicity in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan are not – as a rule – grounded in the regulatory or legislative regime. That is to say, ethnic discrimination as such is largely a negative rather than a positive legal phenomenon. With the exception of citizenship laws granting expatriate titular ethnic groups priorities or preferences, and laws governing language use which operate to disadvantage linguistic (and therefore ethnic) minorities, facially or functionally discriminatory laws and regulations on the basis of ethnicity do not figure as a regional pattern. Rather, ethnic discrimination typically arises on the basis of a failure to enforce applicable constitutional and legislative non-discrimination and other protections.

Discrimination in favour of the titular ethnic community is, to a great extent, understandable given the way in which the four states came to be constituted and the way in which they were governed in the Soviet and post-Soviet periods. Contemporary discriminatory practices which favour members of titular ethnic groups for positions of authority (private and public) in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan represent in some ways the continuation of a long-standing Soviet practice of ‘indigenisation’ (korenizatsia): the recruitment of (politically reliable) local or native cadres to the bureaucracy to replace Russians or outsiders, in part to make the entire Soviet system more legitimate and acceptable to non-Russians. The meaning of indigenisation has necessarily changed in independent Central Asia since there is no longer an ostensibly ‘neutral’ authority mediating among the claims and needs of titular and non-titular ethnic groups. Other contemporary practices which have the effect of favouring titular ethnic groups for access to social goods or resources (education, housing, employment) may be novel in form and character but they can equally be
seen as representing an extension of the logic of the Soviet 'indigenous' preference scheme to other domains. Inevitably, systems, policies and practices which favour titular ethnic groups – whether directly or indirectly – discriminate against members of other ethnic groups.

This paper first sketches the complex Soviet approach to ethnoterritorial autonomy and ‘nationality’ (ethnicity), before reviewing the commonalities in the contemporary constitutional and legal framework on ethnic and linguistic discrimination. The paper then surveys and analyses regional patterns of discrimination arising on the basis of ethnicity, focusing on those which are transnational or regional in nature or effect.

1 History and Context: Soviet Legacy and Contemporary Politics

Contemporary patterns of ethnic and linguistic discrimination in the four states under review are very much a consequence of the distinctive manner in which the Union of Soviet Socialist Republics (USSR) defined and regulated ethnic identity, and of the patterns of internal migration within the Soviet space which the regime engendered. The Soviet leadership, commencing with Lenin and Stalin, instrumentalised national (ethnic) self-determination (nationalism) as part of a programme to achieve a multicultural socialism. To that end, the Soviet authorities established both the constitutional scheme of ethno-territorial federalism (autonomy) that established all five Central Asian republics as ethnic homelands in the 1920s and 1930s and the complementary nationalities regime which juridified ethnicity (‘nationality’) for multiple purposes (identity documents, employment and education, governance). Indeed, as has been noted:

The world’s first state of workers and peasants was the world’s first state to institutionalize ethnoterritorial federalism, classify all citizens according to their biological nationalities and formally prescribe preferential treatment of certain ethnically defined populations.8

The Soviet regime placed a significant focus on identification of nationality. Nationality was officially registered for all Soviet citizens as “point 5” in the obligatory internal passport – the propiska – the primary Soviet identity document.9 Nationality was determined on the basis of descent and designated from a (changing) official tally of nationalities compiled on the basis of census data.

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6 See Zhussipbek, G., “History of the Central Asian region”, in this publication, section 5
As noted by Tukamadiyeva, all Central Asian states, bar Kazakhstan, have retained a modified *propiska* regime, and *propiska* status is thus inscribed in the passports of citizens.\(^\text{10}\)

The delineation of the five Central Asian republics in the 1920s was conducted on the basis of linguistic census data, the republics having been created around linguistic communities.\(^\text{11}\) However, the Soviet territorial autonomy scheme could not encompass all nationalities; only those deemed numerous or concentrated enough were accorded territorial homelands (autonomies), with a resulting mismatch between ethno-linguistic groups and autonomous homelands. Central Asian Soviet Socialist Republics (SSRs) were created for Kazakhs, Uzbeks and Turkmen (initially), and Kyrgyz and Tajiks (subsequently).\(^\text{12}\) Other regional nationalities (Karakalpaks, Pamiris) received lesser territorial autonomies. The smallest and most marginalised minorities – the Dungan, Uighur, Lyuli, for example – received no territorial autonomy at all.

Moreover, most Central Asian states included significant groups of “reciprocal minorities”: populations of the titular ethnicity of neighbouring states (ethnic Uzbeks in Kyrgyzstan, ethnic Tajiks in Uzbekistan, for example), particularly in the Ferghana Valley which was parcelled out between Uzbekistan, Kyrgyzstan and Tajikistan.\(^\text{13}\) This area has proved a particular flashpoint for ethnic tension, violence and discrimination, including by or with the acquiescence of the authorities.\(^\text{14}\)

The demographics and social dynamics of Soviet Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan were further complicated by the fact that they served as places of exile for so-called enemy nations and other communities deemed politically suspect or undesirable: Meskhetian Turks were deported *en masse* from Georgia to Uzbekistan and Kyrgyzstan, for example, as were Pontic Greeks, Volga Germans and Koreans to Kazakhstan.\(^\text{15}\) These groups were typically settled in communities of co-exiles with ethnic collective farms being commonplace. Additionally, ethnic Russians were encouraged to resettle in Central Asia, during the drive for industrialisation.\(^\text{16}\)

Ethnic discrimination was in some senses inherent in the Soviet mode of governance. The original demarcation of territories and the establishment of the corresponding structures of public authority was only the starting point. Indigenisation policies in the fields of higher education, media and communications, culture, language, politics and administration and employment – including quo-


\(^{11}\) See above, note 5, 1, 12, 13, 15 and 16.

\(^{12}\) Ibid.

\(^{13}\) Ibid.


\(^{15}\) See above, note 5, 1, 12, 13, 15 and 16.

\(^{16}\) Ibid.
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tas in some fields – favoured titular ethnic groups, in order to overcome the perceived “backwardness” of these nationalities within the wider Soviet Union. Thus, some have described the Soviet Union as an “Affirmative Action Empire”,17 in reference to its policy of raising the perceived material and cultural level of the non-European peoples of the Soviet Union to a supposed European standard exemplified by the Russians. In effect however, the complex scheme of ethno-territorial autonomy joined with ethnic preferences conditioned a complex dynamic of power and resources in which non-titular ethnic groups suffered significant disadvantage when compared with titular groups.

Moreover, while Moscow assumed the central regulatory role for ethnic affairs and inter-ethnic relations,18 its policies – particularly the compulsory and voluntary resettlement policies – fostered tensions with local populations.19 In Kazakhstan, for example, the forced resettlement of Germans, Poles, Koreans, Chechens and Russians led to a situation in which ethnic Kazakhs became a minority,20 only becoming the largest ethnic group in 1989.21 A more specific example of how central Soviet policy stirred ethnic tension in Kazakhstan is the attempt, in the Gorbachev era, to replace a popular Kazakh First Secretary with an ethnic Russian - Gennadiy Kolbin – provoking violent disturbances, and equally violent suppression by Soviet security forces.22

Since Independence

The collapse of the USSR and its fragmentation into independent republics necessarily meant the collapse of the overarching Soviet multinational project. In its place, the leadership in post-Soviet Central Asian republics has – to varying degrees, and with differences in approach – pursued a national or nation-building project focussed on the titular nationality and reflected in a corresponding ideology and policies. Although the nature and degree of officially promoted (and legally grounded) titular nationalism and titular privilege varies across the four states, non-titular ethnic groups experience comparative disadvantage in all of them, as a result of such policies.

A notable example of this aggravated status is the question of state policy on language, an issue which is inexorably linked with ethnicity. In Kazakhstan, for example, where the ethnic Kazakh population constitutes less than two thirds of the total (63%), the state nation-building policy (Kazakhification or Kazakhisation), aims to promote Kazakh identity in part through use of the Kazakh language. This has meant that a constitutional provision mandating the use

18 Ibid.
22 The so-called Zheltoksan (Kazakh for December) Uprising of 17 December 1986.
of Russian (the second official language) alongside Kazakh in the public sector has not been consistently implemented in practice. This has the effect of indirectly discriminating against ethnic Russians, Uzbeks and ethnic minority groups, who all understand Russian but not Kazakh. According to the 2009 census, Kazakhstan is home to speakers of a multitude of languages, yet while Russian is understood by 94% of the population, Kazakh is understood by 74% of the population. and the level of understanding of spoken (let alone written) Kazakh among ethnic minority groups is very low: ethnic Russian (25.3%), Germans (24.7%) and Ukrainians (21.5%). Thus, the policy of discontinuing the use of Russian – which is much more widely understood by the population in general, and is used in particular by ethnic minorities – may constitute indirect discrimination on the basis of ethnicity, in that it puts minority groups at a particular disadvantage, and cannot be justified as a proportionate means of achieving a legitimate aim.

The situation regarding language use may be most stark in Kazakhstan, but issues also arise in the other countries in the region. In Kyrgyzstan, according to the Constitution, Kyrgyz is the state language, with Russian an official language. However, the provision with respect to Russian is vague and ambiguous, creating space for discriminatory interpretation. The “Concept on Strengthening National Unity and Inter-Ethnic Relations in the Kyrgyz Republic”, approved by the President in April 2013, following the second wave of interethnic violence in the predominantly Uzbek populated Southern Kyrgyzstan in 2010, ostensibly aimed at appeasing interethnic tensions and promoting intercultural dialogue, states as one of its objectives the need to enhance the unifying role of the state language and to develop linguistic diversity. The underlying intention was clearly to boost the use of the Kyrgyz language, since it sets out an extensive list of activities aimed at: increasing the number of people who speak and use Kyrgyz; increasing the use of Kyrgyz in the socio-political, economic, cultural and scientific arenas; and increasing the proportion of education at all levels in Kyrgyz. Besides reference to Russian and English, “there is nothing in the Concept regarding support for the development and use of minority languages, such as Uzbek. In Uzbekistan, the use of and respect for the Tajik language, despite Tajiks being the largest ethnic minority in the country, has noticeably declined, as demonstrated by the fact that University entry tests are now exclusively offered

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23 Article 7 of the Constitution of Kazakhstan establishes Kazakh as the state language, but also provides that Russian shall be used on par with Kazakh in state institutions and local administrative bodies.


25 Ibid., p. 22.

26 Ibid.


29 Ibid., p. 153.

30 Ibid., pp. 142-143.
in Uzbek, limit access to tertiary education and public sector employment.\textsuperscript{31}

The loss of the broader multinational Soviet framework and of the mediating and directing role of Moscow have also resulted in significant changes to the ethnic make-up of the Central Asian states. The economic as well as the social consequences of the Soviet break-up have led many non-titular groups to emigrate altogether. There has been significant post-independence emigration, notably ‘repatriation’ of Russians from the Central Asian states to the Russian Federation, but also of communities of other ‘irredenta’—that is of members of resident ethnic communities to their respective kin-states (e.g. ethnic Greeks in Kazakhstan to Greece, ethnic Germans in Kyrgyzstan and Kazakhstan to Germany, ethnic Poles to Poland).\textsuperscript{32} This phenomenon is common to post Soviet space and has been termed “the unmixing of peoples”.\textsuperscript{33}

In a similar vein, there has been some degree of immigration of co-ethnics from outside the region to their respective titular states (e.g. ethnic Kazakhs from China to Kazakhstan).\textsuperscript{34} As a general rule, however, “reciprocal minorities”, or co-ethnics from within the region – such as ethnic Uzbeks in Kyrgyzstan – have remained in the neighbouring states. Nevertheless, as a result of post-Soviet “unmixing” the states present a significantly simplified demographic pattern, and in each of them the titular nationality represents a greater proportion of the population than on the eve of independence. Kazakhstan presents a particularly stark example: having been a minority in their own country before 1989, due to the compulsory resettlement of Germans, Poles, Koreans, Chechens and Russians into Kazakhstan,\textsuperscript{35} following independence in 1991, the state embarked on a policy of encouraging the repatriation of ethnic Kazakhs living outside of Kazakhstan. This, coupled with the continued emigration of non-Kazakhs, particularly from “Slavic” or “European” nations, and higher birth rates among Kazakhs has resulted in a significant increase in the size of the Kazakh population as a proportion of the whole.\textsuperscript{36}

Another feature of the Soviet regime – the \textit{propiska} – has endured, albeit in a modified form. In Uzbekistan, modifications to the regime after independence

\begin{footnotesize}
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\item See above, note 5, pp. X-Y.
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made the regime more strict\textsuperscript{37} with deleterious effects for freedom of movement, in violation of the constitution.\textsuperscript{38} Maintenance of \textit{propiska} disadvantages many individuals in Uzbekistan, affecting access to employment, housing, healthcare and social benefits: the system particularly affects economic itinerant migrantlabourers, who travel across the country.\textsuperscript{39} However, perhaps in light of recent UN committee recommendations regarding the retention of the \textit{propiska} system,\textsuperscript{40} or possibly as a consequence of President Karimov’s demise, acting President Mirzoyev signed a decree on 7 October 2016 relaxing the Tashkent residency rules, allowing 59 state bodies and organisations to grant permanent registration to those affiliated with those agencies.\textsuperscript{41} Nevertheless, these new rules continue to disproportionately disadvantage ethnic minority groups residing outside the capital, since they privilege state employees and still require possession of a rental agreement.\textsuperscript{42} While the regime in Uzbekistan is undoubtedly stricter, migrants in Kyrgyzstan and Kazakhstan also experience disadvantages in accessing social benefits.\textsuperscript{43}

2 Legal Framework on Ethnic and Linguistic Discrimination

All four states are signatories to the principal human rights instruments and are bound by the relevant non-discrimination obligations respecting ethnicity, including notably the International Covenant on Civil and Political Rights, Article 2(1) of which provides for non-discrimination in the enjoyment of civil and political rights and Article 26 of which provides for non-discrimination as a free-standing right; the International Covenant on Economic, Social and Cultural Rights, Article 2(2) of which guarantees non-discrimination in the enjoyment of Covenant rights, and the International Convention on the Elimination of all forms of Racial Discrimination, which requires states to prohibit all forms of discrimination on the basis of race, colour, descent, national, and ethnic origin. They are thus subject to the observations and recommendations of the respective treaty monitoring committees, bodies which have been critical of the state authorities for inadequate protection of Convention rights, and in some case for failure to respect the rights. For example, in its 2014 review of Kazakhstan, the Committee on the Elimination of Racial Discrimination: Kazakhstan (CERD) expressed

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\textsuperscript{38} Uzbek Constitution 1992, Article 28.

\textsuperscript{39} This phenomenon is comprehensively explored in Turaeva, R., \textit{Migration and Identity in Central Asia: The Uzbek experience}, Routledge, 2015, chapter 3.

\textsuperscript{40} See, for example, United Nations Human Rights Committee, \textit{Concluding observations on the fourth periodic report of Uzbekistan}, UN Doc. CCPR/C/UZB/CO/4, August 2015, Para 20.

\textsuperscript{41} Decree No. 336 of the Cabinet of Ministers on measures for the further improvement of the regime of permanent \textit{propiska} (registration) of citizens of the Republic of Uzbekistan, foreign citizens and stateless persons in Tashkent city and Tashkent region, available at: http://lex.uz/ru/law_collection/?id=3183.

\textsuperscript{42} \textit{Ibid}.

concern about the low number of complaints made under ICERD provisions and the lack of court cases concerning racial or ethnic discrimination, and invited the state to examine the effectiveness of the legal and judicial systems in providing remedies to victims of racial discrimination.\textsuperscript{44}

The gap between international obligations and domestic legislation remains significant. All four states afford constitutional guarantees of equal protection and against discrimination on the grounds of ethnicity and race.\textsuperscript{45} However, legislative provisions are generally weak, ineffective, or altogether absent. While extreme manifestations of discrimination, such as bias-motivated violence (hate crimes) and incitement to violence and discrimination (hate speech) are prohibited by Criminal and Administrative Liability Codes,\textsuperscript{46} there is inadequate legislative protection against discrimination in the public and private sectors. None of the four states has specific, comprehensive anti-discrimination legislation,\textsuperscript{47} as required by international law.\textsuperscript{48} Moreover, while laws in other areas of life – such as employment legislation, for example – contain some non-discrimination provisions, the scope and definition of these provisions is inconsistent with international law.\textsuperscript{49}

Civil society organisations are impeded by the poor legislative anti-discrimination framework in bringing complaints and asserting rights against discrimination. Some have attributed the lack of jurisprudence on discrimination to definitional deficiencies and vague terminology. In a submission to the Universal Periodic Review of Kazakhstan in 2014, the Kazakhstan International Bureau for Human Rights and the Rule of Law (KIBR) criticised “an absence of clear definitions of legal terms and concepts which prevent individuals from establishing that discrimination has occurred and which results in the misapplication of law, with potential cases of discrimination often being decided on other grounds in


\textsuperscript{47} See discussion in \textit{Equal Rights Trust, Looking for Harmony - Addressing Discrimination and Inequality in Kyrgyzstan}, December 2016, p. 56; \textit{Equal Rights Trust, In the name of unity - Addressing Discrimination and Inequality in Kazakhstan}, December 2016, p. 44; \textit{Equal Rights Trust, Addressing Discrimination and Inequality in Tajikistan} (forthcoming), section 2.2.2; \textit{Equal Rights Trust, After the Padishah Addressing Discrimination and Inequality in Uzbekistan}, December 2016, pp. 43-44.

\textsuperscript{48} See, for example, Committee on Economic, Social and Cultural Rights, General Comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/GC/20, 2009, Para 37.

\textsuperscript{49} See discussion in \textit{Equal Rights Trust, Looking for Harmony - Addressing Discrimination and Inequality in Kyrgyzstan}, December 2016, section 2.2.3; \textit{Equal Rights Trust, In the name of unity - Addressing Discrimination and Inequality in Kazakhstan}, December 2016, section 2.2.3; \textit{Equal Rights Trust, Addressing Discrimination and Inequality in Tajikistan} (forthcoming), section 2.2.3; \textit{Equal Rights Trust, After the Padishah Addressing Discrimination and Inequality in Uzbekistan}, December 2016, section 2.2.3.
An assessment of the legal framework on ethnic discrimination in the states must consider the rules and procedures regulating the identification and role of ethnicity (ethnicity as a status) as well as the rules against discrimination, including notably the rules regarding registration of ethnicity (nationality) and the comprehensive citizenship laws, which each Central Asian state has adopted. While citizenship as a formal matter in each state is entirely independent of ethnicity (save, as noted below, for Kyrgyzstan and Kazakhstan which both provide a “right of return”), and ethnicity (nationality) is not mentioned in the citizenship laws of the states, citizens in the Central Asian states effectively bear an ethnic identity as well as a civic one. The Kazakh and Kyrgyz Constitutions forbid the Soviet practice of compulsory indication of ethnicity but Uzbek legislation retains it.

In all cases however, ethnic identity remains a legally cognisable status, defined by descent. Under Kazakh law, for instance, the ethnicity of a child is derived from that of the parents; where the parents’ ethnicity is divergent, the child may choose the ethnicity of either parent (but cannot register as mixed) for the purposes of identity document or passport; Uzbek legislation contains a similar provision. In the context of significant discriminatory policies and practices on the basis of language and/or ethnicity, election of ethnicity for registration purpose has become a means of avoiding or averting discrimination. Thus, as identified by the Equal Rights Trust, in Uzbekistan, “members of the Tajik community often self-identify as Uzbeks in order to increase employment opportunities.

Both Kyrgyzstan and Kazakhstan recognise a “right of return” on an ethnic basis. Ethnic Kyrgyz are entitled to a waiver of residency requirements Kazakhstan’s policy includes the repatriation of foreign-born ethnic Kazakhs, so-called oralman, the largest communities of whom are to be found in China. Kazakhstan

54 See above, note 36.
55 Law of the Kyrgyz Republic No. 70 on Citizenship of the Kyrgyz Republic 2007, Article 14 (2).
56 Oralman (Kazakh: Оралмандар), or “returnee”, is an official term used by Kazakh authorities to describe ethnic Kazakhs who have immigrated to Kazakhstan since its independence in 1991. Oralman usually come from the neighbouring countries of China, Mongolia, Uzbekistan, Russia, Kyrgyzstan and also from countries with very small Kazakh minorities: Iran, Afghanistan, and Pakistan.
has established a regime whereby returning oral many are entitled to naturalisation (citizenship) on the basis of a simplified procedure as well as additional support, but subject to residency requirements.57

3 Regional Patterns of Ethnic Discrimination and Disadvantage

As might be expected in states with the complex history and modern demography of the four Central Asian republics which are the focus of this study, in each country, there are many and varied patterns of discrimination and disadvantage affecting different ethnic groups. However, the focus of this paper is on identifying those transnational patterns of discrimination which have a particular relevance at the regional level, and as such, this section of the paper focuses on those issues which are evident in more than one state, and which appear prevalent – albeit with different manifestations – across the region.

Groups Exposed to Discrimination and Disadvantage

As noted above, the cross-cutting regional patterns of discrimination in Central Asia reflect the entrenched privileged status afforded to the titular ethnic group in each state, and the correlative disadvantage of minorities. However, the experiences of these minority groups are far from uniform. Research in the four different countries which are the focus of this paper reveals a kind of “hierarchy” of minority groups, with those at each level experiencing discrimination with greater severity. The three levels in this hierarchy can be considered as: (1) ethnic Russians; (2) reciprocal minorities (titular ethnic groups from neighbouring states); (3) marginal, or smaller, minority groups.

Ethnic Russians

There are significant numbers of ethnic Russians in three of the four states – 370,000 (6.4%) in Kyrgyzstan, 1.65 million in Uzbekistan (8.4%) and 3.68 million (21.5%) in Kazakhstan – with Tajikistan, where Russians constitute just 1.1 % of the population, being the only exception. Yet despite the size of the ethnic Russian population in the region today, these figures represent a precipitous decline since the end of the Soviet period, a consequence of the so-called “unmixing” of the populations in the region.58

As discussed by Zhussipbek, the Soviet period saw significant resettlement of Russians into Central Asia, who were encouraged, incentivised, or required for professional or bureaucratic reasons to relocate to the periphery.59 Throughout the Central Asian region, Russians were engaged in the administration of the

59 See above, note 5, pp. X-Y.
Soviet state, and were, as a result, disproportionately represented in government and administration. Resettlement also came about for economic purposes, as Russians were incentivised to migrate to participate in major agricultural or industrial initiatives. Kazakhstan exhibited a distinctive pattern of Russian migration and settlement, for historical reasons. Kazakhstan abutted the southern flank of Russia, and northern Kazakhstan had been a zone of extensive Russian migration, largely for agriculture and live-stock raising, since the days of Catherine the Great. Following decades of Soviet resettlement policies, Russian-soutnumbered Kazakhs on the eve of the break-up of the USSR.

The position of ethnic Russians in Central Asia today reflects a broad general pattern in the former Soviet Union. Formerly a privileged minority, representing as they did the dominant ethnic / national group of the Soviet Union and speaking the universal tongue, Russians enjoyed a set of correlative advantages during the Soviet period. However, once the peripheral (non-Russian) republics became independent, the Russians confronted a sudden loss of status; Russian ethnicity became a source of resentment. Although, discrimination against Russians in Central Asia never achieved the levels it did in the Baltic states, in the early-post Soviet period, Russians in Central Asia found themselves targets of harassment and discrimination in areas such as employment.

As discussed below, ethnic Russians in the Central Asia region today experience discrimination primarily as a consequence of language policies which have led to the reduced use of the Russian language, even in cases where the language has a constitutionally-protected status. Nevertheless, the position of the ethnic Russian minority in all four states is generally better than that of reciprocal minorities, and is definitely better than that of the small, marginal minority communities discussed below.

Reciprocal Minorities

As noted above, each of the four Central Asian states under review is home to at least one substantial minority ethnic group which is the titular ethnic group of a neighbouring state. As discussed elsewhere in this publication, these communities exist as a consequence of Soviet national delimitation policy, which established the borders of five SSRs in a region where no such borders had previously existed, and where different ethno-linguistic communities had co-existed, particularly in urban areas. Dividing the region broadly along linguistic lines, the Soviet policy had the effect of “stranding” ethnic groups – particularly in the heterogenous Ferghana valley region, and the major urban centres – in states with a different ethnic majority. Thus, the current Central Asian states inherited large minorities who shared ethnicity and language with the majority of the popula-

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60 See above, note 5, pp. X-Y.
61 See above, note 5, pp. X-Y.
63 See above, note 5, pp. X-Y.
tion in one of their neighbouring states.

Both Kazakhstan and Kyrgyzstan have Uzbek populations, though the scale of the group in Kyrgyzstan (14%)\(^64\) dwarfs that of Kazakhstan (2.9 %).\(^65\) Tajikistanis home to the largest recorded reciprocal minority: more than 15% of the population is Uzbek.\(^66\) According to official statistics, Uzbekistan is home to both Tajiks (5%) and Kazakhs (3%).\(^67\) though some commentators have suggested that the ethnic Tajik population could in fact be much higher, with the difference accounted for by misrepresentation during the census.\(^68\) Of these communities, three merit particular attention because of their size and their particularly charged relations with the dominant (titular) ethnicity: ethnic Uzbeks in Kyrgyzstan, ethnic Uzbeks in Tajikistan, and ethnic Tajiks in Uzbekistan.

Ethnic Uzbeks in Kyrgyzstan were the primary victims of two outbreaks of interethnic violence in the country in 1990 and 2010. A report by the Kyrgyzstan Inquiry Commission, which investigated the causes and consequences of the 2010 violence, found that the majority of those who were injured or killed during the violence were Uzbek, and the majority of property damage affected Uzbek homes.\(^69\) Yet despite the fact that ethnic Uzbeks were more likely to be victims of the violence, ethnic Uzbeks were also over-represented among those who were subject to criminal proceedings related to the violence: 79% of those who were accused of criminal offences related to the violence were ethnic Uzbek.\(^70\) The authorities have been criticised for failing to address the root causes of the 2010 conflict, and there is evidence of continued discrimination against ethnic Uzbeks in the criminal justice system, in employment and in public life.\(^71\)

As noted, Tajikistan is home to the single largest reciprocal minority in the region, with 15% of the population identifying as ethnic Uzbek, though even this is a reduction from the Soviet period, when the figure was closer to 25%.\(^72\) Tensions between the Uzbek minority and the government and the majority have flared at various points since the country became independent, including in 1994 in the Vaksh valley, in 1996 when there was a coup attempt led by two ethnic Uzbeks, and 2006, after a border dispute between Tajikistan and Uzbek-


\(^70\) Ibid., p. 39.


More recently, the government’s focus on promoting the Tajik language has reduced opportunities in education and employment, and contributed to under-representation in political life.74

Tajiks in Uzbekistan have been subject to disadvantage as a result of the systematic state policy of Uzbek nationalism which has exposed them to assimilationist pressure and linguistic marginalisation.75 The subordinate status of Tajiks in Uzbekistan dates from early Soviet times, when the decision was made in 1929 to elevate the status of the Tajik Autonomous Republic (formed 1924) within the Uzbek Soviet Socialist Republic (SSR) to the status of a separate SSR, thus leaving the principal urban concentrations of Tajik-speakers, in Bokhara and Samarkand, within Uzbekistan.76 Tajiks in Soviet Uzbekistan found themselves at a disadvantage in the face of official preferential treatment (in employment, education, and cultural expression) for Uzbeks.77 The status of Tajiks in Uzbekistan has demonstrably worsened in the post-Soviet period, as the state has promoted the Uzbek national identity and promoted the Uzbek language, and as Tajiks have been amongst those groups presented by the regime as Islamist extremists or irredentists.78 As discussed below, discrimination against Tajiks in employment and higher education is largely a function of promotion of the use of the Uzbek language.

**Marginal Minorities**

In addition to being home to significant Russian and reciprocal minority ethnic groups, each of the four Central Asian states also has a number of smaller, “marginal” minority groups. These groups, due to their small size and their social and political marginalisation, are particularly vulnerable to discrimination. Two of these groups merit particular attention, given their particular experiences of discrimination and disadvantage, and their presence in multiple countries in the region.

**Lyuli**

Each of the four countries all have heterogeneous “gypsy” populations, which share a presumptive origin outside the region, in Afghanistan, Iran and the Indian subcontinent and which have been settled for periods ranging from hundreds of years to the last decades. The term “gypsy” (tsigane, roma) is in fact inapposite to these groups: they have nothing in common with the Roma in Central Europe apart from the designation “gypsy” and their social marginalisation. They are

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78 See above, note 30.
referred to by various ethnonyms, but are typically called Lyuli or Mughat; the term “Lyuli” is most widely use and is adopted here, albeit advisedly.79

The Lyuli have distinctive occupational and ritual features, including endogamy, which set them apart from the surrounding population, even though sharing the local vernacular. There are different sub-groups within the wider Lyuli population, each of which have distinct cultural and linguistic sub identities and typically speak distinctive dialects of Tajik, and are concentrated in Tajikistan and Uzbekistan.80

Under the Soviet Union, the various Lyuli groups were forcibly sedentarised, along with other nomadic minority populations, and settled in rural villages, apart from populations which traditionally had inhabited the larger cities, in distinct neighbourhoods. The Lyuli “gradually adopted an almost entirely sedentary lifestyle and became an integral part of the social structures of Soviet society” albeit “generally at its periphery”.81

After the Soviet collapse, the residential segregation and cultural differences of Lyuli groups exposed them to new forms of discrimination. They became increasingly subject to discrimination in education and employment particularly, and assumed marginal occupations such as peddling, scrap-mongering, and begging. Stigmatisation and marginalisation of the Lyuli across the new Central Asia are thus a recent phenomenon; whereas they were accommodated in multicultural USSR, they have been targeted to greater or lesser degree by the new regimes and societies of the post-Soviet states.

In Kyrgyzstan, the disadvantages of the Lyuli community in Kyrgyzstan concern lack of identity documents, access to housing, employment and education.82 The UN Committee on the Rights of the Child has expressed concern about the lack of educational participation by and opportunities for Lyuli children.83 In 2013, UNICEF reported that only around 40% of school-age Lyuli children actually attended school and that, in a community numbering around 4,000 people, only 80 had completed the tenth grade and just two had completed higher education.84 According to research conducted by Equal Rights Trust, in Uzbekistan, the Lyuli are arguably the most stigmatised and marginalised ethnic group in the country, who face discrimination in almost every area of social, economic and political life.85 Despite this, the state does not recognise discrimination against the Lyuli, leading the CERD to express concern that the situation of the Lyuli had

80 Marushiakova, E. and Popov, V., Gypsies in Central Asia and the Caucasus, Palgrave Macmillan 2016, pp 9-16
81 Ibid.
82 See above, note 27, p. 148.
not been recognised “as a form of racial discrimination” by the state.\textsuperscript{86}

\textbf{Uighurs}

In Kyrgyzstan and Kazakhstan, the Uighur populations (1% and 1.45\% respectively) are particularly exposed to discrimination. In addition to the small size of the populations and the differences in culture and language with the majority populations, the Uighur have become, in some ways, unwitting pawns in the evolving relations between their home states and China, Russia and their home states. Indeed, one academic has noted that “China’s economic influence in Central Asia is increasing (...) as a result, Uighurs cannot count on Central Asian states to protect their rights, particularly if they involve any issues related to the interests of China”.\textsuperscript{87}

Research by the Equal Rights Trust in Kazakhstan found that “Uighur schools are undergoing a deep crisis”: the use of Uighur texts which are inconsistent with the national curriculum and entrance tests for high schools in Kazakh and Russian only has resulted in unequal conditions for Uighur speaking students, contributing to a reduction in the number of staff and students.\textsuperscript{88} Furthermore, modules on the “History of Uighur People” have been removed from the Uighur schools’ curriculum, while any visual references to the Uighur language and culture (such as portraits of Uighur academic, writers and historical figures or quotes in the Uighur language) have been removed from schools and cultural institutions.\textsuperscript{89}

In Kyrgyzstan, the situation for Uighur populations has also deteriorated since independence. An Uighur association, Ittipak (Kyrgyz-Uighur Unity Association) is in its 28th year and “plays a strong role in conflict prevention by addressing the grievances of Kyrgyzstan’s Uighur population and meeting needs when the government does not [such as language schools and charity]”.\textsuperscript{90} However, an independent researcher on Uighurs has stated that while Ittipak is a “major” Uighur organization, it is under “government control” and does not participate in political activities within Kyrgyzstan.\textsuperscript{91} This opinion is corroborated by Equal Rights Trust research in Kyrgyzstan; local political activists reported to the Trust that: “in recent years, the Kyrgyzstani authorities have started to monitor and restrict the political activities of Uighurs and meetings of Uighurs are attended by the

\begin{thebibliography}{99}
\bibitem{87} Immigration and Refugee Board of Canada, \textit{Kyrgyzstan: Treatment of the Uighur [Uighur] minority by society and authorities, including state protection provided to victims of violence and discrimination; Uighur minority political groups, including activities (2012-2015)}, 12 February 2015, KGZ105071.E, available at: http://www.refworld.org/docid/560b96564.html, citing a Professor from the International Development Studies Program at George Washington University, 3 Feb. 2015, Canada.;
\bibitem{89} See above, note 23, p. 139.
\bibitem{91} See above, note 86.
\end{thebibliography}
Help towards the Uighurs from China seems to provoke a harsher response than advocating for rights for former Soviet Uighurs. For example, if China requests arrest or extradition of its Uighur citizens resident in Kyrgyzstan, the Kyrgyz government is likely to oblige them. Indeed, between 2001 and 2011, around 50 Uighurs seeking asylum were reportedly extradited from Kyrgyzstan to China. The CERD has expressed its concern that: “[a] discriminatory approach is applied regarding registration procedures and recognition of refugee status with respect to foreign Uighurs (...), placing them in risk of harassment by the police and refoulement.”

4 Patterns of Discrimination and Disadvantage

As noted, patterns and experiences of discrimination vary significantly between countries, in light of historical, political, economic and social factors. Nevertheless, in the Central Asia region, a number of distinctly regional patterns of ethnic discrimination – with common roots and similar manifestations – can be identified.

Discriminatory Violence

The most serious pattern of ethnic discrimination in the region is that of interethnic violence and associated hate speech. Far and away the most serious and large-scale incidents of such violence have occurred in Kyrgyzstan, but lesser forms of harassment and violence have occurred in Kazakhstan and other parts of the region as well. Mixed communities where violence has flared up are frequently to be found in the Fergana Valley, a once-unified territory which is now divided between Tajikistan, Uzbekistan, and Kyrgyzstan.

In Kyrgyzstan, interethnic violence, centred around Osh and Jalalabad, in June 2010 claimed close to 500 lives and resulted in nearly 2000 injured. Although the great majority of those who suffered the effects of violence in the riots were ethnic Uzbeks, the great majority of those detained and prosecuted in the aftermath of the riots were similarly ethnic Uzbeks. Almost 80% of those brought up on criminal charges following the violence were Uzbek, including 24 of 27 charged with murder. Moreover, the Kyrgyz Inquiry Commission, established to investigate the causes and consequences of the violence, found that police and military sweeps after the restoration of order directly targeted and brutalised Uzbeks. As discussed below, the vulnerability of ethnic Uzbeks in southern Kazakhstan endures, even years after the events of 2010. The Committee on the

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92 See above, note 27, pp. 149-151.
93 See above, note 86.
94 See above, note 27, pp. 149-151.
96 See above, note 68.
97 See above, note 96.
98 See above, note 68, Para 202.
99 Ibid, Paras 199-201
Elimination of Racial Discrimination, reviewing Kyrgyzstan’s implementation of the ICERD in 2013, criticised the lack of progress by the state in addressing the root causes of the violence, and expressed concern at “reports of biased attitudes based on ethnicity in investigations, prosecutions, condemnations and sanctions imposed on those charged and convicted” in the wake of the violence.\(^ {100}\) Research by the Equal Rights Trust in 2015 and 2016 found that the Uzbek minority continue to experience problems in interaction with the state authorities, and in employment, as a consequence of the violence.\(^ {101}\)

While Kyrgyzstan has seen the largest and most severe outbreak of interethnic violence, smaller incidents have occurred elsewhere in the region. In Kazakhstan, episodic incidents of interethnic attacks were reported in 2010 from a number of rural districts, roughly contemporaneous with though unrelated to the violence in Osh and Jalalabad in Kyrgyzstan.\(^ {102}\) More recently, in 2015, there have been incidents in southern Kazakhstan involving ethnic Uzbeks and Tajiks, the latter involving large-scale riots and skirmishes in three villages in the wake of the murder of an ethnic Kazakh by an ethnic Tajik.\(^ {103}\) Law enforcement have tended to downplay and fail to investigate such incidents.

In contrast with neighbouring Kyrgyzstan, Tajikistan and Uzbekistan have not seen widespread ethnic violence, despite the size of the reciprocal minority community in each case. While the Tajik civil war, had a definite regional (and therefore ethnic) dimension, scholars have noted that most of the parties involved in the conflict “identified themselves by ideology”.\(^ {104}\) Some authors have speculated that the authoritarian nature of the regimes, particularly in Uzbekistan, has acted as a bulwark against interethnic violence.\(^ {105}\)

**Language**

Language and language use is a central issue for ethnic minorities throughout the Central Asia region, affecting all three of the ethnic categories set out above – ethnic Russians, reciprocal minorities and marginal groups. In all four states, the language of the titular ethnic group has been designated the official language, though Russian has been given varying degrees of official status. This causes problems of communication – and hence creates a barrier to equal participation – both for ethnic Russians and for other minority groups.

In all four countries, the majority of those in non-titular ethnic groups do not

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100 See above, note 94, Para. 6.
101 See above, note 27, pp. 136-147
have a good (or any) command the titular language and are therefore often at a disadvantage in various areas of economic, social, civil and political life, where the titular language is used. The chief patterns of discrimination and disadvantage affecting non-titular language speakers are found in education (lack of non-titular language streams in primary and secondary instruction and lack of non-titular language tuition), employment (requirement of fluency in titular language as condition of employment), engagement with public services (lack of non-titular language official documents and communications), and, of course, media and communications (lack of availability of broadcast and print media in non-titular languages).

Prior to the collapse of the USSR and the establishment on independent states, the Russian language enjoyed a pre-eminent status as the official *lingua franca*, the language of inter (really trans-) ethnic communication. It is still in very wide use in Kazakhstan (historically the most Russified, and today with the largest Russian population as a proportion of the whole),

Kyrgyzstan, and (to a lesser degree) Uzbekistan and Tajikistan. It enjoys constitutionally protected status as an official language in Kazakhstan and Kyrgyzstan, although not in Uzbekistan or Tajikistan. The Russian language is significant not merely because it is the native tongue of the large ethnic Russian populations in many countries, but because reciprocal and other non-titular minorities continue to be much more likely to be fluent in or able to use Russian than the titular (national) language. Thus, state policies and actions which restrict the availability of Russian language resources and the public use of the Russian language have the effect of disadvantaging all non-titular minorities, not only Russians.

As discussed above, approximately 75% of the largest ethnic minority groups in Kazakhstan do not speak the official state language – Kazakh. Conversely, Russian is spoken (albeit as a second language) almost universally (94%), among both ethnic minorities in Kazakhstan (including ethnic Russians, but also Uighur, Uzbek, Ukrainian, Korean, German, Azerbijani, Tatar, Armenian, and Dungan) and the majority of ethnic Kazakhs.

Among minorities, the levels of Kazakh competence are low (ethnic Russian 25.3%, Germans 24.7% and Ukrainians 21.5%).

The Equal Rights Trust has found that minorities are thus severely disadvantaged by the increasing tendency for public services, public employment and education to be mediated in the Kazakh language, despite the protected constitutional status of Russian.

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108 See above, note 22.

109 See above, note 26, Article 10.

110 See above, note 105.


112 See above, note 27, pp. 133-143
e.g. court documents), though mandated by law, are often not forthcoming in practice.\textsuperscript{113} Russian-language media have been subject to discriminatory enforcement.\textsuperscript{114} The tendency towards diminished use and acceptance of Russian in public life is itself a manifestation of the so-called “Kazakhification” policy pursued by the governing regime, which seeks to promote Kazakhstani national identity through a focus on Kazakh ethnic identity, language and culture.\textsuperscript{115}

In Kyrgyzstan, a parallel tendency has developed (albeit with different consequences), with the state promoting the use of Kyrgyz in public and cultural life and education, pursuant to the 2013 Presidential Concept on National Unity and Inter-ethnic Relations.\textsuperscript{116} The Concept omits mention of the Uzbek language at all, much less set out measures for the support of Uzbek use, despite its being the language of the principal non-titular minority. In the wake of the 2010 violence, the availability of both Uzbek-language instruction and Uzbek-language media has appreciably diminished.\textsuperscript{117} Also in the wake of the riots, Uzbek media (print and broadcast) shut down (owing to the flight of the owners) and remained closed or were subsequently converted to Kyrgyz-language.\textsuperscript{118} Though Russian continues to be widely used, Russian speakers in the Kyrgyz Republic confront difficulties in securing employment as well as hostility in social situation owing to their lack of command of Kyrgyz.\textsuperscript{119}

In Tajikistan, as in Kazakhstan and Kyrgyzstan, state nation-building policies have involved the promotion of the Tajik language, despite the presence of a large Uzbek speaking minority. According to an Institute of War and Peace Reporting report “Tajik-focused language policies and the exclusion of minorities from political decision-making are reducing opportunities for the Uzbek minority”.\textsuperscript{120} Problems centre on lack of access to education in the Uzbek language and lack of access to Uzbek language media, both issues which have been highlighted as concerns by the CESCR\textsuperscript{121} and CERD.\textsuperscript{122}

The situation is mirrored in Uzbekistan, where, although Tajiks constitute the largest single minority population and are the dominant element in two major urban centres, the Tajik language is restricted in its availability in media and education.\textsuperscript{123} Tajik language media are also subject to repression; in Mavlonov and

\begin{itemize}
\item \textsuperscript{113} Minority Rights Group, \textit{State of the World’s Minorities and Indigenous Peoples 2015}, 2015, p. 139.
\item \textsuperscript{115} See above, note 27, p. 133.
\item \textsuperscript{116} Decree of the President of the Kyrgyz Republic “On the Concept on Strengthening National Unity and Inter-Ethnic Relations in the Kyrgyz Republic”, 10 April 2013, № 74.
\item \textsuperscript{117} See above, note 68, p. 154.
\item \textsuperscript{118} \textit{Ibid.}, p. 156.
\item \textsuperscript{119} \textit{Ibid.}, p 158.
\item \textsuperscript{120} See above, note 73.
\item \textsuperscript{123} See above, note 30.
\end{itemize}
Legacies of Division
discrimination on the basis of ethnicity and language in kazakhstan, kyrgyzstan, tajikistan and uzbekistan

Sa’di v Uzbekistan, held that Uzbekistan had violated Article 27 in conjunction with Article 2 of the ICCPR by denying the registration application of the Tajik language newspaper “Oina”. Moreover, while Karakalpak and Uzbek are both official languages in the Karakalpak autonomous republic, “the government has recently been replacing the Karakalpak names of populated places, geographical features, and administrative divisions with Uzbek language names only”.125

As parties to the ICCPR, all four Central Asian states have obligations to prohibit discrimination on the basis of language, as well as on the basis of ethnicity. In addition, under Article 27 of the ICCPR, ethnic and linguistic minorities have the right “in community with others” to use their own language. This latter obligation is particularly relevant in the fields of education and public media, areas where ethnic minorities in all four countries experience problems. Moreover, as discussed by the Equal Rights Trust in its assessment of Kazakhstan’s laws, policies and practices on discrimination, while there may be reasonable limits on the ability of the state authorities to provide information and services in a range of different languages, where a common language of communication – such as Russian – exists and is not used, this can raise concerns about indirect discrimination on the basis of ethnicity.126

Education

As indicated above, across the four states, ethnic discrimination in education is largely, if not entirely, a function of language regulation, inequalities in the public provision of education in different languages, and resulting barriers in access for ethnic minority groups. Schools and educational institutions providing minority-language instruction are generally limited, with numbers being reduced. In general, Russian language instruction has fared better than instruction in the languages of reciprocal minorities and marginal groups, though even here there are causes for concern. The unequal language provision is maintained at primary, secondary and tertiary levels.

In Kazakhstan, minority language primary and secondary instruction is generally available only in areas with sufficiently high numbers of speakers of the relevant language (Uighur, Tajik, Uzbek), apart from Russian-language instruction, which is more generally available. Nevertheless, the numbers of Russian language schools are reducing.127 Other minority language schools, particularly Uzbek and Uighur, are also in decline: there were only 14 Uighur and 2 Tajik

schools in 2013.\textsuperscript{128} Further, the Committee on the Elimination of Racial Discrimination has expressed concern that minority language curricula, staff and materials may be deficient.\textsuperscript{129} Moreover, the Kazakhisation policies of the central government have had effect on the provision of education not solely through language regulation but also through changes to the curriculum, with changes to history teaching in particular to minimise the role of non-Kazakhs and magnify the role of Kazakhs in the history of the polity. Thus, Uighur history modules have been eliminated from the Uighur-stream schools, together with references to Uighur culture and cultural figures.\textsuperscript{130}

In Kyrgyzstan, while the Constitution guarantees the right for minorities to receive education in their own language,\textsuperscript{131} the proportion of education provided in the Uzbek language has been decreasing. Schools in Osh and Jalalabad which had previously offered both Kyrgyz and Uzbek language instruction have eliminated the latter, in some cases owing to a cut-off in state funding.\textsuperscript{132} Between 2002 and 2012, there has been a 62\% reduction in the numbers of children receiving instruction in Uzbek.\textsuperscript{133} At the tertiary level, one of the two institutions of higher education which formerly offered courses in Uzbek offers only Russian and Kyrgyz and the other has closed.\textsuperscript{134} In 2014, the government changed its policy to require that all testing at secondary school level and all university entrance exams be conducted in either Kyrgyz or Russian, and no longer in Uzbek.\textsuperscript{135} The number of schools offering instruction in Russian has also diminished in the South, though not in the capital and the North.\textsuperscript{136}

As noted, Tajikistan is home to the largest of the region’s reciprocal minorities, with almost 15\% of the population identifying as Uzbek. Yet the CERD and the CRC have both criticised the state for a lack of textbooks for children belonging to minority groups and the lack of qualified teachers working in minority languages.\textsuperscript{137} In 2014, the Institute of War and Peace Reporting reported that in one town in the west of the country, “five years ago, 80 per cent of classes

\textsuperscript{128} Committee on the Elimination of Racial Discrimination, \textit{Sixth and Seventh Periodic Reports: Kazakhstan}, UN Doc. CERD/C/KAZ/6-7, 5 August 2013, Para 10

\textsuperscript{129} Committee on the Elimination of Racial Discrimination, \textit{Concluding observations: Kazakhstan}, 2010, UN Doc. CERD/C/KAZ/CO/4-5, Para 9


\textsuperscript{131} See above, note 26, Article 10, paragraph 3.

\textsuperscript{132} See above, note 27, p 154.

\textsuperscript{133} \textit{Ibid.}, p. 155.


\textsuperscript{137} See, for example, Committee on the Elimination of Racial Discrimination, \textit{Concluding observations on the sixth to eighth periodic report of Tajikistan}, U.N. Doc CERD/C/TJK/CO/6-8, 24 October 2012, Para. 18.
were taught in Uzbek and 20 per cent in Tajik. Now it is the other way round.”
Moreover, as in Kyrgyzstan, ethnic Uzbeks who have managed to access schooling in their own language experience significant challenges at the tertiary level, as there are no universities offering courses in Uzbek, other than those focused on Uzbek literature or training to provide primary education in Uzbek.

The CERD has criticised Uzbekistan for failing to make adequate provision for education in minority languages, noting the “insufficient support given to the promotion of minority languages, including the Tajik language, and at the decrease in the number of schools providing education in minority languages”.

Even when Tajik schools are available, the lack of prestige of Tajik and the exclusive reliance on Uzbek in public life mean that Tajik parents may well choose to send their children to Uzbek schools so as not to impair their access to higher education and public employment. Moreover, as in Kyrgyzstan, tertiary education is effectively denied to the largest minority ethnic group Tajiks – since University entrance tests are exclusively in Uzbek; the lack of access to tertiary education in Tajik is a further disincentive for parents who may otherwise wish their children to receive education in Tajik.

**Employment**

There is evidence in all four countries of underrepresentation of ethnic minorities in the labour force, with issues of language being a clear barrier in some cases, while examples of direct discrimination, stemming from prejudice or stereotypes, can also be identified.

In Kazakhstan, discrimination in employment – as in education – is closely linked with language. This problem is particularly acute in the public sector, where ability to speak Kazakh – the official state language – is a frequent requirement. In some cases, it will be a legitimate, genuine occupational requirement that public employees speak the state language. Nevertheless, the CESCR has noted that parties to the ICESCR “should ensure that any language requirements relating to employment (...) are based on reasonable and objective criteria.” In Kazakhstan, the Equal Rights Trust found evidence that language requirements were imposed in some cases in the absence of such criteria. Both the International Labour Organisation Committee of Experts on the Application of Conventions and Recommendations and the CERD have called on the state to take effective measures to increase the representation of non-Kazakh ethnic groups in the civil
In Kyrgyzstan, ethnic Uzbeks experience disadvantage in employment as a consequence of the 2010 violence in the south of the country, as a result of the lack of industry in the region, and as a result of direct discrimination in hiring. In the aftermath of the 2010 conflict, there were reports of summary dismissals of ethnic Uzbeks from their positions in central or local government and of Kyrgyz groups taking over Uzbek businesses. In 2013, CERD has noted that many of those who lost their businesses during the conflict had not received assistance from the state. Moreover, Research by the Equal Rights Trust in 2015 and 2016 found that ethnic Uzbeks in the south faced multiple problems: one man stated that “We have no industry, no plants and factories as in the north of the country” while others stated that those whose family members had been convicted of offences related to the 2010 interethnic violence were vulnerable to discrimination by association. In addition, ethnic Uzbeks and other minorities are significantly underrepresented in the ranks of the civil service and public sector, in particular the police. In its 2015 report to the OSCE Human Dimension, the Kyrgyzstani NGO Human Rights Movement Bir-Duino – Kyrgyzstan highlighted the low rate of representation of ethnic minorities in law enforcement bodies, particularly in south Kyrgyzstan: Uzbeks, who constitute 28-29% of the population in the region, make up less than 6% of all positions in law enforcement bodies. In June 2015, Kyrgyzstan’s President Atambayev is reported to have “acknowledged that the government has not yet designed mechanisms to recruit ethnic minorities in the public sector.” In its July 2015 Concluding Observations, the CESCR called on the state to end persistent discrimination on ethnic and other grounds in accessing employment.

Reciprocal minorities in other countries in the region also experience discrimination in employment. It has been reported that in Uzbekistan, “many Tajiks register themselves as Uzbeks in the hope of hiding their ethnicity and thus not be excluded from employment and educational opportunities”. Conversely, there have been reports of discrimination against ethnic Uzbeks in Tajikistan, in both

148 See above, note 27, p. 144.
152 See above, note 30.
In addition to the experiences of employment discrimination affecting ethnic Russians and reciprocal minorities, there is significant evidence throughout the region of discrimination in employment against the Lyuli. The CERD has expressed its concern about discrimination and disadvantage experienced by the Lyuli in both Tajikistan and Uzbekistan, and has expressed concern at the lack of information provided by Kazakhstan on the position of the Lyuli. Interview conducted by the Equal Rights Trust with 95 Lyuli in Uzbekistan found that 83 had never been employed.

**Political Representation and Participation**

In all four states, the three branches of government and the public services are dominated by representatives of the titular nationality.

The ethnic composition of representative political institutions (parliaments and councils) and of the civil service in Kyrgyzstan, Tajikistan and Uzbekistan reveals significant substantive inequality, in that ethnic minorities are not represented proportionately. In Kyrgyzstan, the proportion of ethnic Uzbeks in the Jogorku Kenesh, executive bodies, the police and the judiciary is well below their 14.6% share of the population. Of the 90 deputies elected to the Jogorku Kenesh in 2007, six were ethnic Uzbeks; of the expanded number of 120 in 2010, only 3 were ethnic Uzbeks. The numbers improved somewhat in the 2015 elections, when 15 out of the 120 elected representatives were from “ethnic minorities”, after a 2011 legislative requirement that candidate lists of political parties had to include a 15% minimum of ethnic minorities.

In Uzbekistan, at the 2009 parliamentary elections, only 13 of the 150 deputies of the Legislative Chamber were from minority groups (only 3 ethnic Tajiks); in the 2014 elections the number rose to 17 (but only 2 ethnic Tajiks); and in the 2014 Senate elections 7 senators were from ethnic minority groups (no Tajiks). Tajikistan’s political bodies are also unrepresentative, and both the CERD and the HRC have expressed concern at the low levels of representation of ethnic minorities in the parliament.

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153 See above, note 79.
154 See above, note 136, Para 11, note 139, Para 13, and above note 144, Para. 20.
155 See above, note 84, p. 146.
156 Committee on the Elimination of Racial Discrimination, *Fifth to Seventh Periodic Reports: Kyrgyzstan*, UN Doc. CERD/C/KGZ/5-7, 8 June 2012, Table 3.
158 Article 60 of the Constitutional Law of the Kyrgyz Republic “On the Election of the President of the Kyrgyz Republic and the Deputies of the Jogorku Kenesh of the Kyrgyz Republic”, 2 July 2011, Law № 68
160 See above, note 122, Para. 12.
Kazakhstan, on the other hand, has made some progress towards integrating ethnic minorities in the legislative and policy making process, in large part through the Assembly of the People of Kazakhstan, which, among other functions, designates deputies to the parliament. The results of the 2016 parliamentary elections resulted in a situation where more than ten different ethnic groups are represented in the Mazhilis, including Russians, Ukrainians, Koreans, Uighurs, Uzbeks, and Dungans. Indeed, ethnic Kazakhs making up only 66% of all deputies elected, roughly commensurate with the size of the ethnic Kazakh population in the country as a whole.\textsuperscript{162} The 2016 Mazhilis is a marked improvement on previous elections: in 2007 ethnic Kazakhs represented 77% of the total number of deputies in the Mazhilis.\textsuperscript{163}

5 Conclusion

As this assessment makes clear, there is a significant regional, transnational pattern of ethnic and linguistic discrimination across the four states, despite the differences between them. This is in part attributable to the similarities in the ethnic make-up of the states in question, each of which is home to both an ethnic Russian population, and at least one reciprocal minority, together with smaller, marginal minorities. In another sense however, these commonalities are a reflection of the fact that discrimination on the grounds of ethnicity and language in all four countries owes a great deal to inherited Soviet structures, policies and understanding.

With a few, notable exceptions, the pattern across the region is one of increasing domination of political, social, economic and cultural affairs in each state by the titular population. State policies designed to foster a sense of national identity in each country have focused in particular on promoting the use of the national language which is – by definition – also the language of the ethnic majority. This in turn has led to a reduction in the provision for minority languages, and the diminishing use of Russian, with discriminatory effects on the principal ethnic minority communities in each country.

Unlike religious discrimination, however, ethnic and linguistic discrimination in contemporary Central Asia is less a matter of a problematic regulatory framework than of the general failure to adhere to non-discrimination obligations. It is a consequence of policy and practice rather than of law and regulation. Nevertheless, while there are protections in place, the anti-discrimination law framework falls short of international standards, and enforcement is weak. Courts in the region have not assumed a principal role in ensuring the protection of rights


against discriminations; the jurisprudence in all four states is thin and ineffect-

Discrimination and disadvantage affecting non-titular ethnic groups arises as a result of the conduct of both those acting in an official capacity (law enforcement, local councils, state bureaucracy) and by ordinary citizens. The primary – though by no means only – driver of discrimination is language policy. The promotion of the use of national languages has come at the expense of both provision for minority languages and for Russian, the language of inter-ethnic communication. This in turn has created barriers to access and participation for minority groups in respect of public services and education, and as a consequence, employment.

There is a clear need both an effective system of enforcement of the existing non-discrimination provisions, backed by the requisite political will at the highest levels of government, and for a more affirmative legal and regulatory framework in which positive action is applied to ensure equal participation for minority ethnic groups.
Each of the countries which constitute the region referred to today as “Central Asia” has its own unique history, geography, culture and demography. Since independence, the five states in the region have followed different paths. Yet they also share a common history. First under the Tsars and then as part of the Soviet Union, the region was, for centuries, ruled by powers in St Petersburg and Moscow.

Equal Rights Trust research in four of the five Central Asian states - Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan – has found that this shared history has also resulted in shared experiences of ethnic and religious discrimination. In this publication, we set out to identify and explore these transnational and regional patterns of discrimination and disadvantage. Drawing on, and expanding upon, the Trust’s research, the papers in this publication identify distinct regional patterns of discrimination and disadvantage. Each of the four states maintains a legal framework which tightly regulates the practice of religion, leading to direct and indirect discrimination against those practicing minority or heterodox faiths. All four states are home to large ethnic minorities: ethnic Russians and at least one “reciprocal” minority – an ethnic group which is the majority group in one of the neighbouring states. As such, the promotion of the ethnic majority language, at the expense of both minority languages and Russian, the language of “inter-ethnic communication”, leads to discrimination and disadvantage in many areas of life.

The overarching conclusion of these papers is that these common patterns of discrimination are the consequence of a shared history – the legacy of divisions which the Central Asian states inherited. This publication aims to foster discussion of these common causes and manifestations of discrimination, and to catalyse debate about potential solutions.

**The Equal Rights Trust is an independent international organisation whose purpose is to combat discrimination and advance equality worldwide.**