

Overview of National Security Agencies in Central Asian Countries

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Overview of State Security Agencies in Kazakhstan

Rustam Burnashev

Introduction

In the Central Asian region, across a range of indices measuring a country's level of development, Kazakhstan is the standout performer. For example, the Fragile State Index assesses the situation in Kazakhstan as "warning", while the situation in other Central Asian countries is assessed as "elevated warning" (Fund for Peace, 2019). According to the Global Peace Index, security in Kazakhstan is assessed as "high", whereas for the same indicator other countries of the region are assessed as being "average" (Institute for Economics and Peace, 2019). However, questions remain as to the effectiveness of the security sector in Kazakhstan and whether it is under sufficient civilian control.

Systematic studies of national security issues in Kazakhstan began in the late 1990s to early 2000s (Kasenov, 1998; Bakaev, 2000; Tazhin, 2000). For the most part, these studies were descriptive. In the first half of the 2000s and early 2010s, works began to emerge that focused on the functioning of the security sector in Kazakhstan. For example, examinations were undertaken on the regulatory and legal components of the security sector (Nurpeisov, 2003) and ensuring security in regional and interregional contexts (Burnashev, 2002; Allison, 2003; Akimbekov, 2003; Burnashev and Chernykh, 2006; Syroezhkin, 2006; Marat, 2009; Peyrouse, 2010a). Eventually, studies emerged that were focused on the security sector in Kazakhstan (McDermott, 2002; McDermott, 2009; Denisentsev, 2020). As a rule, these works are based on the theory of realism, which limits their utility in identifying internal structural factors that determine how development and reform of the security sector is undertaken in Kazakhstan.

This chapter provides an assessment of Kazakhstan's national security system and the security sector reform process.

1. Defining National Security

In Kazakhstan, the term "state security" is not used at the official level, instead the key concept is "national security." The Law titled "On National Security of the Republic of Kazakhstan," defines national security as "the state of protection of the national interests of the Republic of Kazakhstan from real and potential threats, ensuring the dynamic development of a person and citizen, society and state".¹ The security sector in Kazakhstan encompasses not only the traditional sectors of state security such as the military and political branches, but others including economic, environmental, and societal (Buzan and al., 1998). At the legislative level, the following six forms of security are distinguished: public, military, political, economic, informational, and environmental.² As a result, the system of security agencies in Kazakhstan extends beyond traditional security institutions such as the Ministry of Defence or the Ministry

¹ On National Security of the Republic of Kazakhstan, 2012. Article 1.

² Idem., Article 4.

of Internal Affairs, and includes authorized bodies operating in the economic, financial, social, and other such sectors.³ Essentially, the inclusion of these latter bodies in the national security apparatus means that a comprehensive approach is taken to national security.

2. The System of National Security Agencies in Kazakhstan

In accordance with Article 7 of the Law “On National Security of the Republic of Kazakhstan 2012”, the “...system for ensuring national security is formed by interacting security agencies, other state bodies and organizations that carry out measures of a political, legal, organizational, economic, military and other nature aimed at ensuring the security of a man and citizen, society and the state.”

2.1. Agencies Authorized to Use Force on Behalf of the State

Article 9 authorizes the following national security agencies to use force on behalf of the state:

- “public agencies carrying out intelligence and counter-intelligence activities, as well as measures aimed at ensuring the safety of protected persons and objects;
- the Armed Forces, other troops and military formations;
- internal affairs bodies, the anti-corruption service, state fire service bodies, the economic investigation service, and emergency rescue services.”

In addition, ensuring national security is an obligation of all public bodies and state officials.

Article 15 sets out the country’s national security bodies as encompassing the following agencies:

1. The National Security Committee (NSC) is a state body directly subordinate and accountable to the President of the Republic of Kazakhstan. It manages the unified system of national security bodies, which include: intelligence, counter-intelligence, and operational intelligence activities, guarding the state’s borders, maintaining and providing government communications, interagency coordination in the sectors related to its competence, and unified policy in the field of state secret protection. The status, powers, and organization of the activities of the NSC bodies are prescribed by law.⁴ However, the NCS’s activities are governed by a special Regulation, the Decree of the President of Kazakhstan “On Approval of the Regulations on the National Security Committee of the Republic of Kazakhstan”.⁵ The Chair of the NSC is appointed by the President with the consent of the Senate of the Parliament. The dismissal of the Chair is a decision taken by the President. The NSC is composed of the following individual departments⁶:

³ Idem., Article 15.

⁴ On the National Security Bodies of the Republic of Kazakhstan (the Republic of Kazakhstan, 1995d).

⁵ President of the Republic of Kazakhstan, 1996.

⁶ The appointment and dismissal of the heads of the listed agencies is under the authority of the President, following nomination by the Chair of the NSC. See Director of the Border Service - President of the Republic of Kazakhstan, 1999; Director of the Foreign Intelligence Service - President of the Republic of Kazakhstan, 2019d; Director of the Government Communications Service - President of the Republic of Kazakhstan, 2014b.

- The Border Service safeguards the country's territorial integrity and inviolability by protecting the state borders, territorial and internal waters, and maintaining law and order in the border areas.
- Special purpose services A, which has responsibilities that as required by law are classified as secret.⁷
- The Foreign Intelligence Service carries out and coordinates intelligence activities in order to provide the President, Chair of the Security Council, Parliament, Government, state bodies and state organizations with intelligence to inform decisions in political, financial and economic, military-political, scientific and technical, humanitarian, environmental and other areas affecting the national interests of Kazakhstan.
- Government Communications Service whose functions as required by law are classified as secret.

2. The State Security Service of the Republic of Kazakhstan is a state body directly subordinate and accountable to the President. It performs the functions of the Presidential Security Service and the Republican Guard, responsible for the safety of protected persons and objects, and serves as the organizing and coordinating body for ensuring the safety of protected persons.⁸ The Service is headed by its Chief, who is appointed and dismissed by the president. The structure of the State Security Service includes the Republican Guard, including the Presidential Regiments "Aibyn" and "Batyr".

3. The Anti-Corruption Agency of the Republic of Kazakhstan (Anti-Corruption Service) is a public body directly subordinate and accountable to the President, which carries out the formation and implementation of anti-corruption policy; coordination in the field of anti-corruption; and the identification, suppression, disclosure, and investigation of corruption offences.⁹ The Agency is managed by the Chair, who is appointed and dismissed by the President.

4. The internal affairs bodies are executive bodies responsible for the protection of public order; combatting crime, illegal circulation of drugs and weapons, and uncontrolled migration; protection of the rights and legitimate interests of citizens and organizations; organizing the execution of criminal penalties; and coordination of inter-agency activities to ensure public safety.¹⁰ Internal affairs bodies include the police, penitentiary system, military investigative bodies, National Guard of the Republic of Kazakhstan,¹¹ and civilian protection bodies.¹² The Ministry of Internal Affairs leads the system of internal affairs. This is headed by the Minister of Internal Affairs, who is appointed and dismissed by the President.

5. The Ministry of Defence is the central executive body that maintains and ensures the defence capability of the state and is responsible for the readiness and mobili-

⁷ President of the Republic of Kazakhstan, 1996, Article 21-1-1.

⁸ The Republic of Kazakhstan, 1995b; President of the Republic of Kazakhstan, 2014a.

⁹ Ibid., 2019b.

¹⁰ The Republic of Kazakhstan, 2014b.

¹¹ Ibid., 2015a.

¹² Ibid., 2014a.

zation of the Armed Forces. The Ministry's responsibilities also include foreign intelligence, measures to combat terrorism and extremism, and coordination of inter-departmental activities to ensure military security.¹³ The military and political leadership of the Armed Forces is assigned to the President, who also serves as the Commander-in-Chief. The supreme body of military-political leadership during times of war and martial law is the General Headquarters, which exercises control of the Armed Forces through the General Staff. In peacetime, the Armed Forces are governed by the Minister of Defence through the General Staff. The Supreme Command of the Armed Forces is appointed and dismissed by the President.

6. The body coordinating the implementation of a unified state policy in the field of ensuring national security and defence capacity is the Security Council of the Republic of Kazakhstan. The Council's main tasks are "planning, reviewing and assessing the implementation of the main focus areas of state policy in the field of ensuring national security, strengthening the country's defence capacity, ensuring law and order".¹⁴ As Kazakhstan takes an expansive approach to the concept of security, the activities of the Security Council can affect all spheres of life in Kazakhstan.¹⁵ Under law, the right to head the Security Council as Chairman for life belongs to the First President of the Republic of Kazakhstan, Elbasy.¹⁶ The President with the consent of the Security Council Chairman decides on the composition of the Council.

2.2. State Bodies Supervising Security Sector Performance

The governance model in Kazakhstan, formed under the First President — Leader of the Nation, Nursultan Nazarbayev, can be characterized as "super-presidential" (Prokofiev, 2017). A characteristic that is reflected in the President's status as "the head of state, the highest official, who determines the main directions of the domestic and foreign policy of the state," and "ensures the coordinated functioning of all branches of government."¹⁷ The constitutional mandate of the President gives him the right to issue binding decrees and orders; dissolve Parliament and dismiss ministers; appoint and remove the heads of regions and cities, which are under the command of the Republic.

In accordance with Kazakhstan's national laws, control over the work of the security sector is directly under the jurisdiction of the President and related administrative institutions (otherwise referred to as the "Presidential Administration"). The President determines the direction of state policy on national security; ensures the coordinated functioning of all branches of the state power to protect the country's national interests; issues acts on national security; forms the Security Council; and approves the National Security Strategy.¹⁸ All national security bodies are directly subordinate and accountable to the President.¹⁹ The Constitution states that the President is the Supreme Commander-in-Chief, who "appoints and dismisses the high command of

¹³ The Republic of Kazakhstan, 2005.

¹⁴ Ibid., art. 2.

¹⁵ Ibid., art. 3.

¹⁶ Ibid., art. 1.

¹⁷ Ibid., art. 40.

¹⁸ On National Security of the Republic of Kazakhstan (Republic of Kazakhstan, 2012, art. 10).

¹⁹ On the National Security Bodies of the Republic of Kazakhstan (The Republic of Kazakhstan, 1995d).

the Armed Forces.”²⁰ As the Supreme Commander-in-Chief, the President exercises overall leadership of the Armed Forces and determines the overall direction of military policy and military development. Other matters requiring approval of the President are military doctrine; recruitment to and development of the Armed Forces; declarations of state of emergency or martial law; and decisions mobilization of the armed forces.²¹

As in any super-presidential model of governance and within the framework of the model of arbitrary governance (the “arbitrary rule” or “rule by law” model) (Gel’man, 2003; Tulumlu, 2016), Kazakhstan’s approach to the principle of separation of powers is declaratory only. In fact, until March 2019, power in Kazakhstan was concentrated in the hands of President Nursultan Nazarbayev and the administrative institutions under his control, primarily the Presidential Administration. After Nursultan Nazarbayev resigned as the President, the situation changed significantly. Although Kassym-Jomart Tokayev has become the current president of the country, Nursultan Nazarbayev holds a wide range of powers as the First President - Leader of the Nation (Elbasy),²² including the right to head the Security Council for life. Moreover during October 2019, the appointment procedure for certain officials, including the heads of bodies directly subordinate to the President, was changed by a presidential decree requiring their appointment to be made with the consent of the Chair of the Security Council.²³ From a legal point of view, there is a form of dual power in security sector governance in Kazakhstan. Obviously, this state of affairs will last until the death of Nazarbayev.

In Kazakhstan, the Government plays a key role in security sector governance and controlling the security agencies. It submits draft laws on the security sector to the Mazhilis (lower house) of the Parliament and ensures their implementation; develops and organizes the implementation of the main focus areas on national security; and directs the activities of ministries, other central and local executive bodies concerning national security.²⁴

At the state level, parliamentary structures should act as the central body that controls the work of the security sector. The capacity of Kazakhstan’s Parliament to exercise control over the security sector has been evidenced in its developing security policies, budgeting, adopting laws regulating the security sector, resolving issues of conflict, and ratifying international agreements and treaties on security issues. However, the Parliament has only limited impact on the formation of security policy in Kazakhstan. For example, Parliamentary agencies are rarely involved in personnel policy. Parliamentary approval of the candidacy of the NSC Chair is the only time that Parliament plays a role in process to appoint the head of a security agency.²⁵ Although the powers of the Parliament include the approval of the Government’s budget and reporting on its implementation of the budget,²⁶ in reality Parliament approves only the main budget items, without any further specification. Therefore, it has no real budgetary

²⁰ The Republic of Kazakhstan, 1995a, art. 40.

²¹ Ibid., art. 5.

²² Ibid., 2000.

²³ Ibid., 2019e.

²⁴ Ibid., art. 13.

²⁵ Ibid., 1995a, art. 55.

²⁶ Ibid., 1995a, art. 53 and 54.

control over security and law enforcement agencies. The Parliament is authorised to hold hearings on issues of defence and the Armed Forces,²⁷ but this does not extend to holding hearings on other related issues, nor conducting inquiries into the national security sector.

Further parliamentary control over security and law enforcement agencies and the security sector as a whole is limited by the fact that since the 2007 Parliamentary elections, the pro-presidential Nur Otan party has dominated the Mazhilis of the Parliament. In the 2007 elections, Nur Otan party members received 100% of the seats in the Mazhilis, which meant a total of 98 MPs; in 2012 they received 84.7% of the seats which resulted in 83 out of 98 MPs; in 2019 they received 85.7% of the seats which resulted in 84 out of 98 MPs. This situation guarantees Parliamentary support for any decision made by the President. Of course, it remains to be seen whether such support will extend to Kassym-Jomart Tokayev.

In accordance with the Constitution, “the right of the legislative initiative belongs to the president of the Republic, members of the Parliament, the Government and is exercised exclusively in the Mazhilis.”²⁸ Moreover, the Constitution directly states that the Parliament “has the right to issue laws that regulate the most important public relations, establish fundamental principles and norms concerning...ensuring the defence and security of the state.”²⁹ However, the laws of Kazakhstan come into force only after they are signed by the President.³⁰

The courts have a role in monitoring the activities of security and law enforcement agencies. A role that includes protecting the rights, freedoms, and legitimate interests of citizens and organizations; implementation of the Constitution and legislation of Kazakhstan; ensuring implementation and compliance with international treaties; administering justice in cases of criminal and other offences that infringe on the security of a person and a citizen, society and the state.³¹ The Prosecutor’s Office is the highest authority charged with verifying that national security measures respect the rule of law.³² Current legislation authorizes the President to appoint judges and the prosecutor general. The president and judges of the Supreme Court are appointed by the Senate of the Parliament on the proposal of the President.³³ Accordingly, the systems of judicial and prosecutorial control lie with the President. The President’s role is seriously strengthened by the fact that he appoints three out of the seven members of the Constitutional Council, the body charged with exercising constitutional supervision in Kazakhstan. Included in the three members appointed by the President is the Chair of the Council, whose position is decisive in the event of a tied decision.³⁴ In addition, the Constitutional Council may consider whether laws and resolutions adopted by the Parliament comply with the Constitution, but it cannot do the same with the President’s executive orders.³⁵

²⁷ Ibid., 2005, art. 9.

²⁸ Ibid., 1995a, art. 61.

²⁹ Ibid., 1995a, art. 61.

³⁰ Ibid., 1995c: art. 19.

³¹ Ibid., 2012, art. 14.

³² Ibid., 2012, art. 27.

³³ Ibid., 2002a.

³⁴ Ibid., 1995a, art. 71.

³⁵ The Republic of Kazakhstan, 1995a, art. 72.

The system national security in Kazakhstan is extensive, with different bodies established to safeguard national security, a system for monitoring activities, and regulatory framework. The approach of Kazakhstan is based on an expanded understanding of the concept of security and includes almost all aspects of the country's life. In turn this allows state agencies to "securitize" any issue that can be considered as threatening to the functioning of the state apparatus or the existing regime. Despite the declared separation of the branches of government, Kazakhstan is characterized by the super-presidential form of governance, in which the security sector is fully under the purview of the President, the Presidential Administration, and the Security Council. Other forms of government oversight of the security sector are limited.

3. Security Sector Reform

Traditionally, security sector reform has been understood as the process of transforming the sector to ensure the provision of security that is effective and efficient and at the same time conforms with civil and democratic oversight and control, human rights, and the rule of law. The concept of reforming the security sector is based on the idea that a democratic system of governance, transparency, and openness increases the efficiency and reliability of state bodies and security services. Such reform should focus security activities on ensuring national and state security, as opposed to the security of the regime or individual interest groups. It should also contribute to the growth of public confidence in these bodies and lead to an increase in their legitimacy. Security sector reform involves a set of interconnected actions: reform of the Ministry of Defence and army structures, reform of police structures and the Ministry of Internal Affairs, reform of intelligence and counter-intelligence services, reform of the judicial system, reform of the penitentiary system, increasing transparency of security sector funding and, finally, establishing civil and democratic control over the entire sector. Security sector reform in Kazakhstan has been previously considered by a number of researchers (Marat, 2012, pp. 3-20; Peyrouse, 2010b), but their works covered an earlier period – before the early 2010s. The analysis presented in this chapter covers the period up to the end of 2010s. Moreover it considers this process through the lens of "weak states and societies" concept.

After gaining independence and embarking on the process of state-building, similar to other Central Asian countries, Kazakhstan focused on Western partners, primarily NATO and the European Union, as examples to follow in reforming its security sector. However, even at the initial stage of this process, a fundamental difference was noted in the understanding of the essence of security sector reform. In Kazakhstan, security sector reform is understood exclusively as improving the structure of the system of national security agencies and their governance, or even more narrowly — "as a combination of military training, technical support and equipment supplies." (Boonstra and al., 2013 p. 5). The second component of reforming the security sector, formation of a system of democratic oversight and control, along with the rule of law, was barely considered and not implemented. Documents setting out the regulatory framework for Kazakhstan's security sector do not even raise the issue of civic oversight and control. Even formal parliamentary oversight of security agencies is nominal (Burnashev, 2020).

During Kazakhstan's independence, reform of individual security and law enforcement structures and their governance took place in several waves. These affected the four basic components of the security system and included reform of the judicial system, police structures and the Ministry of Internal Affairs, Ministry of Defence and armed forces, and intelligence and counter-intelligence services (see a description of reforms in these agencies below). As regard Kazakhstan, it is almost impossible to identify clear stages of this reform process. Instead, transformations of each basic component took place independently, often in isolation from the other component, and were based on differing understandings of security sector reform and carried out with varying impacts. The most significant impetus for security sector reform in Kazakhstan was the Government's desire to take over the chairmanship of the OSCE. As part of the strategizing to take this position in 2008, Kazakhstan adopted the "Path to Europe Program."³⁶ To be implemented from 2009 to 2011, The Path to Europe programme assumed the improvement of Kazakhstan's model of political and state governance; liberalization of the political life; and reform of the civil service and judicial system. Overall, the tasks of this programme were implemented; yet, after 2011, the previous model of security sector governance was mostly restored and limits on its control by civil society organizations could be observed.

3.1. Judicial Reform

Judicial reform in Kazakhstan had three goals: increasing the transparency of courts, ensuring open access to trials, and increasing the role of jury trials. As part of the reform of the judicial system, the position of the Commissioner for Human Rights (Ombudsman) was established in 2002,³⁷ alongside the National Centre for Human Rights.³⁸ In 2003, a moratorium on the execution of the death penalty was introduced in Kazakhstan.³⁹ In 2006, legislation on jury trials was adopted and since 2007 it has been implemented.⁴⁰ A good example is that, despite the lengthy judicial reform on paper, President of Kazakhstan Kassym-Jomart Tokayev noted in his address to the People of Kazakhstan in September 2019 that, "The key factor in strengthening the protection of citizens' rights and security are profound reforms of the judicial and law enforcement systems." It is necessary to take a number of serious measures to improve the quality of judicial decisions... a thorough analysis of judicial decisions should be carried out, to ensure the uniformity of judicial practice." The President went on to point out that the principle of the presumption of innocence is not always respected.⁴¹ As of the moment of writing (mid-2020), that statement on the need to reform the judicial system remains only a declaration and no effective measures have been taken.

3.2. Military Reform

Creation of the armed forces in Kazakhstan began in 1992, alongside the transformation of the State Defence Committee into the Ministry of Defence.⁴² It then continued with the adoption of the Military Doctrine and the Law “On Defence and Armed Forces of the Republic of Kazakhstan”.⁴³ The Armed Forces were created on the basis of troops and units of the former Turkestan Military District, and included the forces and assets of individual air defence and air forces deployed in Kazakhstan (Burnashev and Chernykh, 2006). Until 1997, the Armed Forces of Kazakhstan retained the structure inherited from the Soviet Union. These included the Ground Forces, Air Defence Forces, Air Force, and Naval Forces. In 1997, this structure was transformed into: General Purpose Forces, Air Defence Forces, and State Border Guard Forces.⁴⁴ In 1999, the State Border Guard Forces were transferred to the jurisdiction of the NSC.⁴⁵ In 1993, armed forces personnel numbered 44 000; by 1999, this number was approximately 55 000.

The first stage of reforming the Armed Forces of Kazakhstan began in 2000 with the adoption of a new Military Doctrine.⁴⁶ The main goal of the reform was the creation of a “well-equipped, highly mobile Armed Forces capable of protecting the vital national interests of the state”, including through “improving the management system, eliminating duplicate and ineffective links”.⁴⁷ Simultaneously, one of the principles of military development was “improving effective civilian control over the activities of the Armed Forces, other troops and military formations”.⁴⁸ The separation of the functions of the Ministry of Defence and the General Staff was an important step towards the establishment of democratic control. Strategic operational and tactical issues fall under the jurisdiction of the General Staff, while the Ministry of Defence focuses on political and administrative spheres.⁴⁹ Further, there is the possibility of appointing a civilian to the post of the minister of defence. However, this division of functions started weakening in 2003, when a new strategic command body, the Chiefs of Staff Committee, was created in place of the General Staff.⁵⁰

During this period, restructuring of both the military districts and Armed Forces gathered pace. Four military districts were formed — Eastern, Western, Central, and Southern.⁵¹ The military districts were reorganized into regional commands “Astana,” “East,” “West,” and “South”. In the restructuring of the Armed Forces, at first the Ground Forces and the Air Defence Forces were distinguished. The Mobile Forces were considered to be a special type of troops. Then in 2003, the Naval Forces were additionally distinguished, and Airmobile Forces were formed based on the Mobile Forces.⁵² The transition of the Armed Forces to a brigade structure took place between 2000 and 2003. The military development and modernization of the Armed Forces and their governance systems, which were taking place until the end of the 2000s, made it possible to create more effective units, primarily within the Airborne Assault (airmobile) troops, some of which performed a peacekeeping mission as part of the Multinational Forces in Iraq from 2003 to 2008. The beginning of the defence reform process led to a sharp increase in the manpower of the Armed Forces — up to more than 65 000 people, but this number was reduced to 60 000 by 2003.

In 2007, these changes were consolidated within the third Military Doctrine. The key goal of military development was somewhat transformed. Now, it was about the cre-

ation of a professional army “capable of rapidly deploying forces and means, guaranteeing the strengthening of statehood, sovereignty and territorial integrity of Kazakhstan.”⁵³ In reality, the reform was aimed at (a) modernizing the structure of the armed forces and reducing the number of units that did not contribute to ensuring military security, and (b) improving the command and control system, including by improving interdepartmental coordination and interaction of security agencies. In 2008, a fairly significant decrease in the manpower of the Armed Forces was recorded of up to 49 000,⁵⁴ and later, this figure remained practically unchanged.

Despite the stated aim of “Increasing the effectiveness of state and civilian control over the activities of the Armed Forces, other troops and military formations”,⁵⁵ in the 2011 Military Doctrine, there was no indication of the need to improve state and civilian control of the military system. The doctrine is based on the task of modernizing the Armed Forces, improving their structure and composition, and system of internal control. More indicative was the goal of defence policy to strengthen the “internal political stability in the country”. This was despite there never having been an internal political situation in Kazakhstan that required the Armed Forces to intervene.⁵⁶ One of the important structural steps undertaken to implement the Military Doctrine was the restoration of the General Staff.⁵⁷

In 2017, yet another military doctrine was adopted,⁵⁸ which focused on the threat of “hybrid” methods being deployed against Kazakhstan. Threats that were defined as “ways to achieve military-political and military-strategic goals by the comprehensive use of military force (including special operations forces, private military, security companies on the territory of the opposing party), non-military means, as well as the use of the potential of other states, terrorist, extremist organizations and separatist movements to destabilize the situation on the territory of the opposing side state.”⁵⁹ These methods can be applied not only by states, but also by individuals and groups. The doctrine was based on the idea that “at present, the main volume of tasks for the comprehensive development of the military organization of the state has been implemented,” including “the composition and structure of the Armed Forces, other troops and military formations have been optimized, and tasks have been clarified taking into account military threats to the state and possible areas of hostile activity.”⁶⁰ Measures were taken to strengthen the defence capabilities of Kazakhstan and increase the readiness of the military to counter any threats. At this point the issues of state and civil control of the armed forces are not raised. However these issues may be a work in progress as the reform of the armed forces in Kazakhstan is viewed as uncompleted. As indicated by President Tokayev, Kazakhstan is faced with “the task of forming

⁵³ Ibid., 2007.

⁵⁴ IISS, 2008, p. 248.

⁵⁵ President of the Republic of Kazakhstan, 2007.

⁵⁶ Between March 16 and May 11, 2020, the state of emergency was imposed in Kazakhstan in connection with COVID-19, with MoD units involved in anti-epidemic measures alongside others (President of the Republic of Kazakhstan 2020).

⁵⁷ President of the Republic of Kazakhstan, 2012b.

⁵⁸ Ibid., 2017.

⁵⁹ Ibid., 2017.

⁶⁰ Ibid.

a combat-ready army based on a new concept [that is, based on the Military Doctrine of 2017]”.⁶¹

3.3. Reform of Internal Affairs Agencies

The reform of law enforcement agencies has largely focused on efforts to improve their structure. Measures have included structural reorganization of the Ministry of Internal Affairs through transferring certain responsibilities to other state bodies, along with improving the professional training of employees and reducing their numbers.

In 1997, a substantial amount of work was carried out to more place responsibilities with the logically suited agencies. For example, the functions of the fire service were transferred from the Ministry of Internal Affairs to the State Committee for Emergency Situations. Combatting economic and corruption crime were delegated to the Agency for combating economic and corruption crime. Forensic medical examination, criminal law statistics, documentation and registration of the population transferred to the Ministry of Justice. However, these reform processes have not always been logical. In 2002, the penitentiary system was transferred from the jurisdiction of the Ministry of Internal Affairs to the Ministry of Justice, but then in 2011, the Committee of the Penitentiary System was transferred back to the Ministry of Internal Affairs.⁶² The driving force behind this particular change appears to have been the deterioration witnessed in the order and conditions of detained convicts in correctional facilities.⁶³ Further haphazard changes were to follow with the functions of documenting and registering the population being returned to the Ministry of Internal Affairs in 2011; and following the abolition of the Ministry of Emergency Situations, the handling of emergencies being returned to the Ministry of Internal Affairs.

Reforming law enforcement in Kazakhstan has been directed at transforming structures and governance. For example in 2013, the Ministry of Internal Affairs system was reformed by merging the functions of the traffic and patrol police with the administrative police. In 2016, the territorial bodies of internal affairs were transformed through the creation of a local police service, placed under the purview of regions and cities of republican subordination. The local police service consists of divisions of district police officers, juvenile police officers, women’s protection police officers, traffic police, environmental police, and reception centres. The main activities of the local police are the crime prevention, protection of public order and road safety.⁶⁴

One of the key measures carried out to improve the capacity of staff was through the certification of professional training for internal affairs officers. With the largest effort to certify professional training taking place in 2012.⁶⁵ As a result, approximately 15% of employees were recommended for demotion or transferred to other services, and about 4000 employees were dismissed.⁶⁶

⁶¹ President of the Republic of Kazakhstan, 2019c.

⁶² Ibid., 2011a.

⁶³ Azhibaev, 2019.

⁶⁴ The Republic of Kazakhstan, 2015b.

⁶⁵ President of the Republic of Kazakhstan, 2012a.

⁶⁶ Azhibaev 2019.

As in the case of the judicial system, in the fall of 2019, President Tokayev stated that comprehensive reform of the law enforcement system remained an urgent objective.⁶⁷ It is particularly telling that the roadmap for the modernization of internal affairs bodies from 2019 to 2021⁶⁸ establishes nine main focus areas: (1) optimization of the organizational and staff structure; (2) improvement of the remuneration and social protection system; (3) selection and training of personnel; (4) elimination of uncharacteristic functions; (5) new formats for working with the population (for example, the establishment of “front offices” in municipal and district police departments); (6) introduction of new evaluation criteria; (7) combatting corruption; (8) modernization of the penitentiary system; and (9) modernization of civil protection bodies. Essentially, the roadmap proposes a structural transformation of the internal affairs bodies, but does not broach the issue of a system of civilian oversight or control.

3.4. Intelligence and Counter-Intelligence Reform

Intelligence and counter-intelligence agencies are among the least transparent security agencies in Kazakhstan. Publicly accessible information only includes data on structural changes in this segment of Kazakhstan’s security sector. In 1997, the formation of the Barlau Service was based on the Intelligence Department of the National Security Committee. It was a foreign intelligence body directly subordinate and accountable to the President.⁶⁹ In 2009, the Barlau Service of the NSC was eliminated and its responsibilities transferred to a state body directly subordinate and accountable to the President, which was known as the Syrbar Foreign Intelligence Service.⁷⁰ As soon as 2019, the Foreign Intelligence Service was reintroduced into the structure of the National Security Committee.⁷¹

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Kazakhstan receives significant assistance for security sector reform from its Western partners. For instance, NATO provided support for the modernization of Kazakhstan’s armed forces in the form of technical assistance and personnel training. The OSCE is assisting in law enforcement reform through the introduction of a “democratic policing” system. However, the influence of external donors is rather limited, as reforms of the security sector in Kazakhstan are pre-dominantly influenced by internal factors. The participation of NATO, the OSCE, and individual Western countries is often limited to personnel training and transfer of experience, with the cornerstones of the reform remaining unaffected.

Kazakhstan’s activities in security sector reform are primarily focused on such areas as the armed forces and the judicial system. The reform process has had only limited impact on the law enforcement agencies and intelligence services. Almost no effort has been made to dramatically transform the Soviet model of security sector development, in which security and law enforcement agencies largely acted as a tool to support the reigning regime and not as institutions focused on safeguarding national

⁶⁷ President of the Republic of Kazakhstan, 2019c.

⁶⁸ Government of the Republic of Kazakhstan, 2018.

⁶⁹ President of the Republic of Kazakhstan, 1997b.

⁷⁰ Ibid., 2009.

⁷¹ Ibid., 2019d.

security. An approach more generally understood as the security of socio-political unity, the way of life and independent self-government,⁷² not to mention preventing structural and cultural violence. Overall, the repressive nature of law enforcement agencies appears to have grown.

On the rhetorical level, the declared focus of the security sector is on the interests, rights, and freedoms of the individual. For example, the Law “On the National Security of the Republic of Kazakhstan” stipulates “observance of legality in the implementation of activities to ensure national security” and “the priority of human and civil rights and freedoms” as the principles of national security. The main national interests that are named include “ensuring the rights and freedoms of the individual and the citizen” and “specific and unambiguous observance of the legislation and maintenance of law and order.”⁷³

4. Transgressions by Security Forces

The main challenge in the security sector of Kazakhstan is corruption. Corruption in Kazakhstan has acquired a systemic nature and permeates, in one form or another, practically all spheres of life. Following the 2019 National Anti-Corruption Report of the Republic of Kazakhstan, out of 1002 persons convicted of corruption offences in 2019, employees of security and law enforcement agencies accounted for 34.2% (343 people). The highest number, 297 individuals, being employees of internal affairs bodies.⁷⁴

Law enforcement agencies have also been known to commit criminal offences. The best-known case of unlawful use of violence by the police against the civilian population took place in Zhanaozen, during December 2011. In response to protests and a mass strike of oil workers turning into major riots, the police used weapons, which led to the deaths of at least 15 people and hundreds being injured. The judiciary recognised the actions of the police as being illegal.⁷⁵

The Ministry of Defence and the NSC are subjected to less frequent accusations of illegal actions and the problems encountered by these two institutions are not regarded as being systemic. However, an explosion at an ammunition depot, which occurred on 24 June 2019 and was located near the city of Arys, demonstrated that, to quote President Tokayev, “serious problems have accumulated” in the armed forces, making it necessary to “put all military expenditures in order and strengthen financial and overall discipline in the army.”⁷⁶

Critical events impacting on the NSC were the involvement of several officers from the Arystan Special Service in the murder of the opposition politician Altynbek Sarsenbayev in February 2006,⁷⁷ and the death of 14 border guards and a huntsman at the

⁷² Jackson, 2016, p. 205.

⁷³ The Republic of Kazakhstan, 2012, Art. 3, 5.

⁷⁴ Anti-Corruption Agency of the Republic of Kazakhstan, 2020, p. 30.

⁷⁵ Open Dialogue, 2012.

⁷⁶ President of the Republic of Kazakhstan, 2019c.

⁷⁷ Zakon.kz, 2006; Lillis, 2006.

temporary border post Arkankergen on 28 May 2012. In this second case, the investigation found that the deaths had been as a result of hazing.⁷⁸

5. Civic Oversight of National Security Agencies

Generally, there is recognition of a need to control the national security bodies in Kazakhstan. One of the principles of national security proclaims “controllability of the implementation of the entire set of actions to protect national security”.⁷⁹ As already discussed, Kazakhstan has created a system of state bodies with the authority to exercise control and supervision over the activities of national security bodies and law enforcement agencies. However, their oversight functions are weak. A seriously limiting factor is that the overwhelming majority of decisions in the security sector are made by presidential orders. Parliament does not provide a role in providing oversight or limitations in the decision-making process. Further, the super-presidential form of government limits the roles of the judiciary and prosecutorial authorities in providing oversight and limitations to the authority of national security bodies.

There is no legislative oversight of the national security bodies by civil society. A situation that is aggravated by the fact that civil society in Kazakhstan only refers to the lack of transparency in the operations of security agencies.

Setting aside the activities of individual non-governmental organizations, civic activity concerning the national security agencies is non-systemic and, as a rule, only emerges in connection with certain events. One such event was the murder of Olympic medallist, Denis Ten, in Almaty on 19 July 2018. In response to this event, the civic initiative, “For MIA Reform”, emerged. In August of the same year, this initiative presented the “New Police of Kazakhstan” concept, which emerged from the 300 suggestions from citizens and best international practices in organizing police services.⁸⁰ The Public Council of Almaty also made recommendations concerning the MIA initiative.⁸¹ These and other proposals received by state bodies from citizens formed the basis of the “Roadmap for the Modernization of Internal Affairs Bodies from 2019 to 2021”.⁸² However, according to activists of the “For MIA Reform”, “out of the entire range of suggestions, only the most insignificant ones were taken into account.” The Roadmap does not stipulate actions such as “the fight against corruption, ... the decentralization of the police, establishing connections between the police and local communities, and the accountability of the police to the community. The authorities simply ignored all these initiatives.”⁸³

Further impetus for reforming agencies of the security sector in Kazakhstan, specifically the Ministry of Internal Affairs and the NSC, were the tragic events in the Korday District of the Zhambyl region during early February 2020. During mass riots caused by inter-ethnic clashes, several people died and residential buildings and cars were destroyed.⁸⁴

⁷⁸ Prosecutor General’s Office of the Republic of Kazakhstan, 2012.

⁷⁹ The Republic of Kazakhstan, 2012, Art. 3.

⁸⁰ Vlast, 2018.

⁸¹ Public Council of the city of Almaty, 2018.

⁸² Government of the Republic of Kazakhstan, 2018.

⁸³ Moldabekov, 2020.

⁸⁴ Ibid., 2020.

Non-governmental organizations that are national subdivisions of international bodies, such as the Kazakhstan International Bureau for Human Rights and Rule of Law, Public Foundation “Transparency Kazakhstan”, Kazakhstan Office of Human Right Watch, and others, constantly call for reform of the security sector. Those calls seek not only structural and personnel changes, but also the establishment of effective civilian oversight and control.

Findings

In terms of improving the structure and governance of national security agencies, Kazakhstan has made progress in security sector reform. The country has developed an impressive legislative framework that regulates security and defence issues. It has the largest professional army in the region. Kazakhstan has expanded its cooperation with NATO as part of an individual partnership plan that provides for democratic control of the armed forces and assistance in the creation of peacekeeping battalions for their potential deployment abroad. Regular restructuring of the security forces is carried out. However, effective democratic oversight and control of, along with adherence to the rule of law, in the security sector is far from being achieved. Even though on the Fragile State Index, Kazakhstan demonstrates stable positive dynamics in terms of the “security apparatus” indicator, it scores consistently low on the “factionalized elites” indicator, a gradual deterioration on the “state legitimacy” indicator and sharp negative dynamics in the “group grievance” indicator.

The weakness of Kazakhstan’s statehood, namely the presence of multiple centres of power and interests that compete with each other, are influential in governance mechanisms. Competition between interest groups associated with certain security agencies, the uncertainty created by the presence of the Presidential Administration and the institute of the First President, and the systemic nature of corruption, all work to reduce the efficiency and quality of security sector governance. This leads to significant high-profile emergencies, such as the events in the Korday District of the Zhambyl region in 2020.

Power-based interest groups have limited to no interest in pursuing security sector reform, with the exception of matters concerning technical assistance. The reforms being carried out are often aimed at improving the country’s image in the eyes of foreign partners. A remarkable example in this regard are the active reform efforts in the security sector before Kazakhstan’s Chairmanship of the OSCE in 2010. Those reforms immediately started on a backwards trajectory in 2011.

The situation is aggravated by the fact that civil society in Kazakhstan is not sufficiently active to have an impact. Political fragmentation is not limited to social collective identity, but extends to commonly shared values. These dynamics prevent civil society from consolidating its position on security sector reforms. The situation is seriously complicated by the repressive nature of security agencies’ activities. Activities that are aimed at the security of the regime, rather than ensuring national and state security.

The weakness of the state and society, along with the subsequent fragmentation at the political and social levels, lead to the absence of a security sector reform strategy. Military doctrines have been developed, but these fail to take a wholistic approach to

national security.⁸⁵ The concept of “security” is viewed as intuitive; there is no comprehensive understanding of what this means at the state level. This not only makes it difficult to build a holistic model of security sector reform, but also allows the active manipulation of security issues. Overall these dynamic result in the securitization of civil activity that are considered most dangerous for the political regime.

Recommendations

Kazakhstan should develop a strategy on national security, which clearly establishes the concept of security with an emphasis on its national component and ideally on human security. These concepts need to take into account the possibility of structural and cultural violence.

Taking into account the actions already carried out to reform the structure of law enforcement agencies, external donors should emphasize the need to introduce civic control over the activities of national security agencies by both Parliamentary structures and civil society.

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⁸⁵ Some sources refer to the National Security Strategy of Kazakhstan for 2017-2020, but no information is provided on its content or time of adoption (Akorda, 2018).

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Overview of State Security Agencies in Kyrgyzstan

Aida Alymbaeva

Introduction

The purpose of this overview is to look at the structure and powers of the security sector agencies in Kyrgyzstan. The overview describes the powers of these government agencies, discusses important changes having taken place in their governance, assesses the most common shortcomings in their activity, and considers the peculiarities of the system of civic and public oversight over the security sector. In the conclusion, recommendations are proposed to the international community on possible support to the security sector of the Kyrgyz Republic in order to promote the principles of democratic governance.

It should be noted that the legislation of the Kyrgyz Republic does not define a list of state agencies that make up the national security system. The existing legislation separately defines military bodies, law enforcement agencies, agencies for civic protection and criminal justice. With every agency having its own legislation and reform strategy, there is ongoing disunity in the governance system,

Which agencies make up the security sector? Based on the Law of the Kyrgyz Republic “On National Security” and the current National Security Concept, government agencies that ensure the national security include: The General Staff of the Armed Forces and the State Defence Committee, which are agencies of the Armed Forces of Kyrgyzstan; and law enforcement agencies.⁸⁶ According to the Law of the Kyrgyz Republic “On Service in Law Enforcement Agencies”, adopted in 2019, law enforcement agencies include the Ministry of Internal Affairs, State Committee for National Security, State Service for Combating Economic Crime, the State Penitentiary Service, as well as the state agency authorized to oversee compliance with the law, the Prosecutor General’s Office. The authorized state body in the field of civil protection, fire and radiation security is the Ministry of Emergency Response.⁸⁷ Another agency is the State Border Guard Service, which became an independent institution in 2012 following its removal from the State Committee for National Security.

Before moving on to describe the powers and functions of these agencies, it is important to characterize the general system of their governance.

According to the Constitution, Kyrgyzstan is a country with a presidential-parliamentary system of government. The country’s Constitution grants each of the branches of power a certain number of powers in the national security sector. Under the Constitution, the President is the Commander-in-Chief of the Armed Forces, who also chairs the Security Council, the agency responsible for developing the overall security policies.⁸⁸ The President approves the strategy on national security and military doctrine, and also oversees their implementation. The President also appoints and dismisses from office the heads of state agencies in charge of defence (General Staff of the

⁸⁸ Constitution, 2017, Art. 64.

Armed Forces, State Defence Committee, State Border Guard Service) and national security (State Committee for National Security).⁸⁹

The Parliament (Jogorku Kenesh) passes legislation concerning national security; defines the composition of the cabinet, including the heads of law enforcement agencies with the exception of the head of the State Committee for National Security (SCNS), dismisses them; and decides on the funding of the security sector. Another important function of Parliament is oversight of the laws implemented by security agencies. The powers of the legislators also include taking decisions on the deployment of the armed forces abroad, imposing a state of emergency and martial law, and declarations of war.⁹⁰

The executive government ensures the implementation of decisions made by the Security Council, national security strategy, military doctrine, target programmes, plans and directives covering national security, takes measures to ensure the country's defence and security, governs agencies of the security sector and coordinates their activities.⁹¹

The following sections assess whether the executive and legislative agencies fully exercise their prescribed powers. The first section briefly describes the powers and functions of security sector agencies. In the second section, the key aspects of the reforms carried out in the security sector agencies are discussed. The final section is dedicated to the civic and public control of the security sector.

1. Security Sector Agencies: Powers and Functions

The agencies that constitute the security sector of the Kyrgyz Republic can be divided into the following groups by their designated function: 1) governing bodies (Security Council); 2) departments that are directly responsible for national security provision (military and law enforcement agencies); and 3) oversight and supervisory institutions (for example, the Prosecutor General's Office, Parliament, Audit Chamber, and Ombudsman Office).

1.1. Governing Body

Security Council

As a legally recognised constitutional advisory structure, the Security Council develops state policy on the national security.⁹² The President chairs this council. The powers of the Security Council include: identifying the priority areas for protecting the national interests of the Kyrgyz Republic; analysing and assessing internal and external threats to national security; improving national security system by means of developing proposals for reforming the existing security agencies or creating new ones.⁹³ The Council prepares proposals to impose, extend or lift a state of emergency or martial law with subsequent submission of this issue for consideration by the Parliament. The

⁸⁹ Constitution, 2017, Art. 64.

⁹⁰ Decree, 2012.

⁹¹ Ibid.

⁹² Law, 2017.

⁹³ Ibid.

Council also develops concepts, strategies, doctrines and other strategic documents on national security and puts in place state programmes for their implementation. It also carries out strategic planning in the security and defence sector.

The activities of the Security Council are supported by the Secretariat, which is part of the Presidential Administration. The staffing structure of the Secretariat is approved by the President.

The functions of the Security Council were significantly expanded in 2017, with the adoption of the new law, "On the Security Council". Under this law, the council was transformed from an advisory agency into an executive body providing oversight as well. Compared to the previous law passed in 2011, "On the Security Council," the powers of the Council were transformed to include not only the development of state foreign and domestic policy in the field of national security, but also control over its implementation.⁹⁴ Among other things, the 2017 law permitted the Council to assess the performance of security sector agencies, inspect their activities, and demand reports from heads of these agencies. Similar to an executive body, the Security Council had the authority to initiate bills and other regulatory acts. As a result of these reforms, the powers of the Security Council were significantly increased in governing the security sector.

The functions of the Security Council were first extended during President Almazbek Atambayev's Administration, who was in power from 2011 to 2017. President Atambayev intentionally strengthened the positions of both the Council and its Secretariat, turning the Council from an advisory and consulting agency into what almost became an executive agency with control functions. The Constitution adopted after the so-called 2010 April Revolution restricted the President's powers. The President was granted the power to: (1) appoint heads of defence sector, which included the General Staff of the Armed Forces, State Defence Committee, Border Guard Service, and (2) national security agencies, which included the State Committee for National Security, and (3) decide on foreign policy matters. Atambayev decided to strengthen his influence through the Security Council which he chaired. To achieve this set up, the 2017 law and the Regulation on the Security Council Secretariat (2017) were passed. The Council Secretariat was assigned to coordinate the activities of state agencies executing the decisions of the President and the Council and oversee implementation of those decisions; to inspect the activities of defence and security agencies; and make proposals to the president on the elimination of identified shortcomings of the concerned agencies' performance. The Security Council Secretariat was effectively transformed into a supervisory agency monitoring the activity of security sector agencies.

No change happened during President Sooronbay Jeenbekov's Administration. The Security Council and its Secretariat continued to be influential management structures in the military and law enforcement sectors.

⁹⁴ Law, 2011.

1.2. National Security Agencies

Military Structures

According to the Constitution of the Kyrgyz Republic, the armed forces are under the authority of the President, who is also the Commander-in-Chief.⁹⁵ The Jogorku Kenesh performs legislative and oversight functions in the military sector. The powers of the executive government include implementation of state policy, provision of financial and material support in military construction, equipping the armed forces, and management of the mobilization of central government and local self-government bodies.⁹⁶

In 1992, the armed forces of Kyrgyzstan were formed with the State Defence Committee (SDC) established as the central military management body. Until 2013, the armed forces were governed by one central agency, the Ministry of Defence. During the same year, governance over the military sphere was changed after a Presidential Decree was enacted which created the General Staff of the Armed Forces (GSAF) and transformed the Ministry of Defence into the State Defence Committee (SDC).⁹⁷

The motivation for separating these two bodies was to better prepare the armed forces for war. The General Staff was meant to focus on uniting all military troops and units under its leadership; a change that placed the General Staff as a central and supreme agency of military and operations management of the armed forces. The SDC served as an auxiliary body of the General Staff and assisted it with the implementation of military goals and tasks, along with overseeing the provision of material, technical and financial support to the General Staff and personnel training. According to the 2013 Military Doctrine, the new distribution of functions were meant to ensure civic oversight over the armed forces by the SDC. Given that the SDC is subordinate to, and reports to the General Staff, in reality there was no possibility for civic oversight. The functions of the General Staff and the SDC are described in further detail below.

General Staff of the Armed Forces (General Staff)

The General Staff is a central and supreme agency executing military and operations management of the armed forces and coordinating the activity of all military bodies. It carries out strategic management of the armed forces, develops plans to mobilize and deploy the armed forces, and for defence infrastructure deployment.⁹⁸ Other functions of the General Staff include: intelligence activities concerning defence and security; information security; development of measures to protect state and military classified information in the armed forces, and analysis of military threats. The General Staff also participates in drafting the national security strategy, military doctrine, and develops proposals on defence spending, size and staffing of the armed forces.⁹⁹ The leadership of the General Staff is directly appointed by the President.

⁹⁷ Ibid.

State Defence Committee (SDC)

The SDC is a body participating in the development and execution of military policy and in the elaboration of military construction plans. The Committee pursues a unified military and technical policy, develops proposals for state defence orders and financial allocations for defence needs, provides material and technical support for military units, and develops military legislation.¹⁰⁰ Another function of the SDC is providing training for the armed forces; with military educational centers subordinate to the SDC. Based on the calculations of the General Staff, the SDC submits requests to the executive government for financial support of the armed forces along with the required weapons and military equipment.

The head of the SDC is directly appointed and dismissed by the President on the proposal of the Chief of the General Staff. The SDC is subordinate to the General Staff.

Overall, the new military doctrine endowed the General Staff with the functions of administration and management of military units, and the SDC with powers to work on issues of logistics, administrative support and training of military personnel.

As to the size of the armed forces, this information is classified. According to various unofficial estimates, the number of military personnel constitutes between 11,000 and 12,000. These numbers make the Kyrgyz army one of the smallest armies in Central Asia, following Tajikistan.¹⁰¹ For example, the Kazakh army has 132,000 military servants. About 50,000 soldiers and officers serve in the ranks of the Uzbek Armed Forces, and Turkmenistan has 22,000 military servants.¹⁰²

State Border Guard Service (SBGS)

After the collapse of the Soviet Union, the protection of external borders, in particular the Kyrgyz-Chinese border, was carried out by the border troops of the Russian Federation. In 1998, an agreement was signed in Bishkek between the Russian Federation and the Kyrgyz Republic on the procedure for transferring the the protection of the Kyrgyz-Chinese section of the state border, previously the responsibility of the Russian Border Guard Service, to the Kyrgyz Republic.¹⁰³ A year later, President Akayev signed an order that later served as the basis for creation of the Kyrgyz State Border Guard Service (SBGS).¹⁰⁴

The SBGS guards and protects the state border, carries out border control at checkpoints and prevents violations of the state border crossing.¹⁰⁵ In addition, the SBGS, together with other agencies, takes measures to combat terrorism, detect, detain and eliminate terrorists in the wider border area. The SBGS also performs intelligence, counter-intelligence, and surveillance operations. Together with the Customs Authorities, the SBGS inspects vehicles, goods, cargo, property and other objects of persons crossing the state border.

¹⁰⁰ Law, 2009a.

¹⁰¹ Grigorenko, 2018; Global Firepower, 2020.

¹⁰² Global Firepower, 2020.

¹⁰³ SBGS, 1998.

¹⁰⁴ Order, 1999.

¹⁰⁵ Resolution 2012.

The Chair of the SBGS is appointed and dismissed by the President.

There is no publicly available information on the number of military personnel in the ranks of the SBGS.

Law enforcement agencies

The main purpose of internal affairs agencies (IAA) is ensuring public order and the safety of citizens by preventing and combating crime. In the Kyrgyz Republic, the IAA are armed law enforcement agencies that perform the following functions: identifying, preventing, combatting and documenting crimes, misdemeanours and violations; pre-trial investigation; searching for suspects who have committed crimes, and hiding from pre-trial agencies and the court, evading criminal punishment, and ensuring traffic safety.¹⁰⁶ The IAA also participates in enforcing and maintaining the state of emergency or martial law, as well as in preventing and overcoming crisis situations.¹⁰⁷

Ministry of Internal Affairs (MIA)

The MIA is in charge of internal affairs bodies (departments, services, divisions, regional, city, district and village police stations). It also develops and implements programmes to strengthen law and order, to combat crime, to ensure public order and public safety. It also drafts laws and other regulatory acts. The MIA manages detention centres for temporarily holding detained and arrested persons.¹⁰⁸ The MIA has Internal Troops that function to ensure internal security in the country. In 2019, the Internal Troops were renamed as the MIA's Military Service for Internal Security. In 2014, as part of the military reform, the Internal Military Service was transferred from the jurisdiction of the MIA into the National Guard, which became part of the armed forces. In 2018, the Internal Military Service again returned to the MIA to deal with internal security issues.

The Minister of Internal Affairs is appointed and dismissed by the Prime Minister.

The number of MIA staff is classified. According to UN data, there are about 18,000 officers serving in the MIA, meaning that there are 2.78 police officers in the country per every 1,000 people.¹⁰⁹

Kyrgyzstan has been independent for almost 30 years, yet the IAA still resembles the Soviet "militia". Their work is not always focused on ensuring human security and human rights or the implementation of crime prevention measures. The IAA are not accountable to the citizens, but are instead embedded into a rigid vertical power structure.

State Committee for National Security (SCNS)

According to the law passed in 1994, "On the National Security Agencies of the Kyrgyz Republic", the SCNS is authorized to carry out intelligence and counter-intelli-

¹⁰⁶ Law, 1994a.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Niyazova, 2013.

gence activities and to organize a system for protecting state secrets. The functions of the SCNS also include participation in prevention of riots and inter-ethnic conflicts.

In 2008, the functions of the SCNS were first expanded. The expansion got underway with the SCNS being tasked with responsibility for countering terrorism, which resulted in the Anti-Terrorist Centre being established.¹¹⁰ During the following year, the SCNS was authorized to combat extremism and in parallel, the MIA was engaged in preventing extremism activity.¹¹¹ At the same time, the SCNS was granted the authority to enforce laws and regulations on information security.¹¹² 2011 witnessed the continued expansion of SCNS' powers. It was tasked with prevention, detection and investigation of crimes of corruption in relation to government officers holding political and high-ranking public administrative and municipal positions, persons employed in law enforcement and judicial agencies, heads of institutions, organizations and enterprises funded from the national budget or which have a government share in their authorized capital.¹¹³ To fulfil this new task, President Atambayev issued a decree to establish a new agency under the SCNS, the Anti-Corruption Service. With this new agency, the SCNS could start criminal cases even against judges and Members of Parliament. The result was that independence of the judicial and legislative branches of government was reduced.

In 2014, more powers were granted to the SCNS: oversight and issuing of import and export licences for transit, development, production, sale and purchase of encryption devices. The latter being special technical means for secret interception of information, i.e. wiretapping.¹¹⁴

Some functions of the SCNS are similar to those of the MIA, which inevitably leads to competition between these two agencies. This rivalry is a legacy of the Soviet Union, when the KGB and the MIA, which used to operate as one agency, were separated after Nikita Khrushchev, First Secretary of the CPSU Central Committee (1953-1961), came to power. Khrushchev did not want to have an agency similar to Stalin's People's Commissariat of Internal Affairs (NKVD) and removed the KGB from the NKVD structure.¹¹⁵ Since then, institutional rivalry emerged between the two agencies.¹¹⁶

Currently, the SCNS has many functions identical to those of the MIA. For instance, as is the case for the MIA, the SCNS is tasked with fighting corruption, smuggling, drug trafficking and extremism; identifying, preventing and investigating criminal cases; conducting operational activities; and carrying out inquiries and pre-trial investigations. It also participates in measures to prevent and suppress mass riots. Identical to MIA officers, SCNS officers are authorized to detain individuals, carry out body searches of the detained and search their vehicles. The SCNS also has its own pre-trial detention centres for suspects.¹¹⁷

¹¹⁰ Law, 1994, as amended in 2008.

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ Decree, 2011.

¹¹⁴ Law, 1994, as amended in 2014.

¹¹⁵ Lee, Stephen J., *Russia and the USSR, 1855-1991: Autocracy and Dictatorship* (New York: Routledge, 2006).

¹¹⁶ Galeotti, Mark, *The Age of Anxiety: Security and Politics in Soviet and Post-Soviet Russia* (London: Routledge, 1994).

¹¹⁷ Law, 1994b.

The SCNS performs policing functions that can only be described as uncharacteristic. Under the 2010 Constitution, President Atambayev did not have under his control agencies authorized to perform police functions. Therefore, the President resorted to expanding the policing role of the SCNS to use it as leverage against his political opponents; a scenario that took place when MPs in opposition, such as Omurbek Tekebayev, Omurbek Babanov and others, were detained by SCNS. The SCNS is an agency directly subordinate to the President's vertical power structure and it enables him to carry out a narrow spectrum of tactical objectives.

Information on the budget and headcount of the SCNS, its performance reports filed with the President, and numerous internal acts such as decrees are all treated as classified information. Currently, Types of Classified Information Lists, which are often referred by the SCNS and other law enforcement agencies, are completely unknown. Classified documents are almost never declassified.

State Service for Combating Economic Crime (SSCEC, Financial Police)

In 2005, the Financial Police Department was created under the authority of the Government. At the end of the same year, this Department was transformed into the Financial Police Service.¹¹⁸ The new service was designed to combat corruption and abuse in tax and customs authorities. In 2008, it was also assigned new tasks, namely pre-trial intelligence operations and investigation of economic crimes.

In 2018, the law "On the Authorized Agency for Combating Economic Crimes" was passed, which was the first designated law regulating the activity of the SSCEC (Law, 2018). Under this law, the functions of the service included: detecting, preventing, combatting and investigating economic and corruption crimes in the economic and finance sectors. The SSCEC can carry out intelligence operations and pre-trial proceedings, register crimes, and detain individuals suspected of economic crimes.

According to the 2011 Government Resolution, "On the Maximum Staffing of Ministries, Agencies, and other Government Agencies," the number of SSCEC staff cannot exceed 340 people. The SSCEC is part of the Government, and its head is appointed and dismissed by the Prime Minister.

State Customs Service (SCS)

In 2015, Kyrgyzstan joined the Customs Union, currently the Eurasian Economic Union (EAEU); a move that was criticised by some domestic companies and NGOs, which were concerned local manufacturers would go bankrupt after the influx of goods from Russia and Kazakhstan and Russia's political influence on the Kyrgyz Republic would increase. After the country joined the EAEU, its national customs legislation was amended. The Regulation on the SCS was amended, which is the main legal act regulating the activity of the SCS. Under the amendments that were introduced, the SCS was tasked with the functions of regulating relations connected with transportation of goods and vehicles across the customs border, and ensuring compliance with the provisions of the Customs Code of the Kyrgyz Republic and the EAEU Code. The

¹¹⁸ Decree, 2005a.

SCS also collects customs fees when goods are moved across the EAEU customs border.

The SCS is authorized to prevent customs violations and misdemeanours, but it cannot undertake investigations. If Customs Service agencies identify violations that belong to the category of criminally punishable acts, such evidence is provided to the SSCEC for legal assessment.

The Head of the SCS is appointed and dismissed by the Prime Minister. The maximum staffing of the Customs Service constitutes 1138 officers.¹¹⁹

State Penitentiary Service (SPS)

In 1995, the Department of Correctional Affairs was re-organized into the Chief Penitentiary Directorate, which until 2002 functioned as part of the MIA. According to the Government Resolution passed in 2002, the penitentiary system was transferred from the MIA to the Ministry of Justice.¹²⁰ Later in 2009, an independent institution was established, the State Penitentiary Service (SPS).

The SPS is responsible for the execution of criminal punishments, detention of perpetrators in pre-trial detention centres and institutions of the penal system, and the maintenance of order in these institutions.¹²¹ Its functions include intelligence, surveillance and assistance to other law enforcement agencies in the disclosure and prevention of crimes committed by convicts and prisoners in penal institutions.¹²² The SPS is also responsible for the security of convicts when they are being escorted and extradited abroad. The GSIN's authority extends to the enforcement of security measures in penal institutions, engagement of convicts to work at production enterprises, and conducting economic activity to support the operation of penal institutions. The SPS is responsible for the safety and health of prisoners.

The number of GSIN staff is classified.

1.3. Supervisory authority

Prosecutor General's Office

The Prosecutor General's Office retains broad oversight powers. The Venice Commission of the Council of Europe believes that the Prosecutor General's Office of the Kyrgyz Republic is "reminiscent of the old Soviet prokuratura model" with extensive powers.¹²³ National legislation, in particular, the Constitution and the Law, "On the Prosecutor's Office" authorizes the Prosecutor's Office to oversee implementation of laws in all national and local government bodies. These include services in charge of education, transport, health care, social security, construction architecture and many others. The Prosecutor's Office also oversees implementation of laws by law enforcement agencies, penitentiary agencies, military units, and courts. The independence of

¹¹⁹ Resolution, 2011.

¹²⁰ Resolution, 2002.

¹²¹ Law, 2003b.

¹²² Ibid.

¹²³ Venice Commission, 2016.

the judiciary is compromised as there is no system of checks and balances between the branches of government. For instance, the Prosecutor General's Office participates in cases before the courts, through putting forward submissions on decisions, convictions, rulings and verdicts that contradict the law.¹²⁴ The Prosecutor General's Office also brings charges in court on behalf of the Government.

In addition, the Prosecutor's Office is accountable for criminal statistics. Previously, this function was assigned to the MIA, but this changed in 2016, when the responsibilities for criminal statistics were entrusted to the prosecution office "to strengthen the oversight functions of the prosecution".¹²⁵

Prior to 2016, the Prosecutor's Office participated in investigations. However, this function was then assigned to the SCNS and SSCEC, with the intention of allowing the Prosecution's Office to focus on its oversight functions.¹²⁶ The Prosecutor General's Office has the right to initiate criminal cases against public officials, but the actual investigation is performed by the SCNS and the SSCEC. The SSCEC investigates corruption-related cases in civil agencies, while the SCNS investigates corruption-related cases against high-ranking officials.

Given its power to oversee the execution of national legislation by all national and public agencies, the Prosecution's Office was transformed into a highly influential agency. The broad powers granted to it have been repeatedly criticized by international organizations, including the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the Venice Commission. These three organisations recommended that Kyrgyz authorities restrict the powers of the prosecution to the criminal justice sector only.¹²⁷ Prosecution agencies are frequently criticized by the public for high levels of corruption. Although corruption by the prosecution agencies falls under the purview of the SCNS, this activity remains closed and is not subject to civic oversight.

The Prosecutor General is appointed by the President with the consent of the Jogorku Kenesh. Dismissal is carried out by (1) the President with the consent of at least half of the total number of Jogorku Kenesh MPs, or (2) at the initiative of one in three MPs with the consent of two thirds of MPs. This system of appointment and dismissal of the Prosecutor General significantly politicizes the agency. The President's decisive vote in this appointment means that the Prosecutor General's loyalties and independence are compromised. Having strengthened the roles of the State Committee for National Security, Prosecutor General's Office and Security Council, President Atambayev subordinated to his authority the Parliament and courts. Thus, the President is the central figure in political decision-making. The objective of the authors of the 2010 Constitution to make the country a parliamentary-presidential republic were not realised. As demonstrated during the time of President Atambayev, Kyrgyzstan remains a presidential-system, with prosecutorial functions being used to strengthen the role of the President.

¹²⁴ Law, 2009b.

¹²⁵ Order, 2016.

¹²⁶ Ibid.

¹²⁷ Venice Commission, 2016.

2. Security Sector Reform

2.1. General Context

The security sector has never been viewed by the Kyrgyz authorities as one integrated sector. Consequently, a holistic approach was never taken to its reform. The Government proposed stand-alone reforms separately for each law enforcement and military agency. These reforms were carried out during different periods and not synchronized. Given that agencies retained both their structure and competencies from the Soviet era, sporadic attempts at reform were ineffective. The agencies remained undemocratic, closed, and ineffective, often resorting to punitive measures. Some, such as the MIA and SCNS, were heavily politicized. True reform would require the creation of effective national security agencies, along with transparency, accountability and democratic oversight being enhanced.

Often, proposed reforms only resulted in the renaming of security sector institutions, along with minor structural reforms. For instance, in 2000, the Ministry of National Security was renamed into the National Security Service. Again in 2007, the Financial Police Service was renamed into the Financial Police. The “reform” process was limited to minor structural changes, such as a slight reduction of staffing or a merger of departments, but fundamental changes were not made. Transformational reforms could have included changing the approach to substantive work, including respect for human rights, or attempting to raise the quality of security services provided. Since the Kyrgyz Republic declared independence, successive government attempts to reform the security sector have been mainly rhetorical.

There are a number of explanations for the stagnant nature of the reforms.

First, in the early years of Kyrgyzstan’s independence, reforming the security services was not a priority for the authorities. Other problems had to be addressed. The collapse of the Soviet Union led to the paralysis of the economy and mass poverty. Therefore, the first priority was to revive the economy and restore the social security system. Kyrgyzstan experienced one of the worst economic downturns in the region. In 1995, the gross domestic product (GDP) halved compared to the levels of the early 1990s. All economic indicators fell, which in turn led to hyperinflation, high unemployment and increased poverty.¹²⁸ People were not paid for several successive months in law enforcement bodies and the armed forces, which led many to quit these agencies.¹²⁹ At the beginning of the post-Soviet period, security sector reform was far from being part of the government agenda.

Second, in the first years of independence, security bodies were staffed with personnel trained during the Soviet era. There were no reform agents to initiate reforms.

Third, for a long time there was no significant public demand for the transformation of the security sector, which led to reforms in this sector being postponed by the authorities.

¹²⁸ Usui, 2010.

¹²⁹ Beishenov, 2013.

A fourth key reason is that Kyrgyzstan neopatrimonialism is the predominant political culture. Those people appointed to major government positions are loyal to the President. Appointees tend to serve the interests of their patron (president), disregarding initiatives for reform. Another factor is that corrupt law enforcement agencies have always been internally resistant to reforms. Those in charge were reluctant to change the system, being content with “benefits” they received through corrupt channels or through patronage over profitable companies in shadow economy. Some high-ranking officials even had ties to organized crime or protected drug trafficking networks,¹³⁰ while representatives of law enforcement turned a blind eye to this situation or were even involved in the deals.

Slow reforms in the security sector were witnessed during the authoritarian regimes of Kyrgyz’s first two Presidents - Akayev (1991-2005) and Bakiyev (2005-2010). They both politicized law enforcement and judicial agencies. The overall political context significantly influenced the development of the security sector institutions.

After the overthrow of President Bakiyev in 2010, following the example of the police reform in Georgia, civil society advocated radical changes for the law enforcement agencies. However, neither President Roza Otunbayeva, who held this position during the transitional period, nor the subsequent popularly elected President Atambayev took comprehensive action to fully reform the security sector. In the post-conflict period, which included inter-ethnic clashes in the south of the country during June 2010, the primary task of the new interim government, headed by Otunbayeva, was to maintain political stability in the country, without focusing on law enforcement reform or transformation of the public administration system. The interim governments which was in place from April 2010 to December 2011 consisted of disjointed political actors. Another reason is that the interim government was unwilling to contemplate the risks involved in dismissing a large number of law enforcement officers during a period of fragile political stability. Without solid legitimacy and universal credibility with the Kyrgyz people, President Otunbayeva’s interim Government was concerned about dismissed law enforcement officers joining revanchist groups. The strengthening of such groups had the potential to become a significant opposition force that could destabilize the interim Government.

In 2011, President Otunbayeva attempted to make some changes to the public administration system through the initiative to create Public Oversight Councils (POC). These councils consisted of civil society representatives and were designed to perform civic oversight of government agencies. POCs were created under law enforcement agencies such as the MIA, SCNS, SSCEC and State Penitentiary Service. However, the POC under the State Committee for National Security operated for one year only. Due to the reluctance of the SCNS leadership to cooperate with POC members, the decision was taken to disband the council.¹³¹ Nine years after the POC were created, it is clear that the performance of these councils has been ineffective.

¹³⁰ Kupatadze, 2012.

¹³¹ Kloop.kg, 2013.

Elected by popular vote in 2011, President Atambayev sought to consolidate his power through increasing his influence over the Parliament, judiciary and law enforcement agencies. As a result, a number of opposition MPs were targeted and prosecuted.

From 2015 to 2018, government spending on defence, public order and security remained fairly consistent. Table 1 shows that, while the total amount of security sector funding increased in 2018 compared to 2015, spending expressed as a percentage of GDP remained at the level of 3.5%, and actually decreased in relation to the total national budget from 14.9% to 13.4%.

Table 1. Government spending on defence, public order and security

National budget line	2015 ¹³²			2018 ¹³³		
	Amount	Share in budget, %	% of GDP	Amount	Share in budget, %	% of GDP
Defence, public order and security	Kyrgyz SOM14.8 billion, or about \$231 million ¹³⁴	14.9%	3.5%	Kyrgyz SOM19.6 billion, or about \$284 million	13.4%	3.5%

Overall, transformations in the security sector of Kyrgyzstan can be divided into five stages:

1. The first stage (1991–1998) is associated with the foundation of a national security sector system as part of the development of an independent, sovereign Kyrgyzstan. This period includes establishing the legal foundation of defence and security agencies.
2. The second stage (1999–2005) is distinguished by a period of increased political competition in the country, especially the presence of a strong opposition in Parliament. Protests intensified in the country and amongst the public dissatisfaction with the formation of family-clan rule began to grow, which reached its climax in March 2005 and led to the overthrow of President Akayev.
3. The third stage (2005–2010) is characterized by the fact that, despite public expectations for real reforms, law enforcement agencies became heavily politicized. During this period, organized crime merged with law enforcement agencies. The army was the only entity that remained free of political manipulation.

¹³² Министерство финансов, Отчет об исполнении республиканского бюджета Кыргызской Республики за 2015 год, Доступно по адресу: <http://www.minfin.kg/ru/novosti/novosti/otchet-ob-ispolnenii-respublikanskogo-byudzheta-ky> (2020).

¹³³ Там же. Отчет об исполнении республиканского бюджета Кыргызской Республики за 2015 год, <http://www.minfin.kg/ru/novosti/novosti/otchet-ob-ispolnenii-respublikanskogo-byudzheta-ky> (дата посещения: 2020).

¹³⁴ Average USD rate according to the National Bank of the Kyrgyz Republic, <https://www.nbkr.kg> (access date: 2020).

President Bakiev was ousted from the power after the so-called 2010 April Revolution.

4. The fourth stage (2010–2012) covers the period when yet another revolution led to constitutional reforms and parliamentary elections, which sparked public debate on law enforcement reform. President Otunbayeva created the Public Oversight Councils under government agencies, including security sector agencies. Discussions on reform of the MIA also began.
5. The fifth stage (2013–present) is characterized by the expanding powers of those agencies that are directly subordinate to President Atambayev. This included expansion of both the SCNS's policing functions and the Security Council Secretariat's role. Being unable to subordinate the police, the President expanded SCNS's policing functions. Meanwhile, partial transformations were taking place in the activities of the MIA, resulting in projects such as Road Safety Project through traffic digitalization and Patrol Police. In other words, President Atambayev and later Jeenbekov supported changes in those divisions that did not limit their interests.

In the post-Soviet period, institutional transformations in the security sector were largely initiated as a response to the conflicts that occurred, when new strategies were adopted to reform one agency or another following a crisis. However, the strategies adopted remained unfulfilled or did not comply with the principles of reform such as democratic governance or respect for human rights. For example, after the so-called April Revolution of 2010, law enforcement agencies were subjected to serious public criticism for serving the interests of an authoritarian Government. The accusations against the agencies included high levels of corruption and an inability to ensure law and order and citizens' security, including maintaining order during the April events and the inter-ethnic conflict in the southern Kyrgyzstan in June 2010. In response, the authorities declared their commitment to reform and a window of opportunity to change the law enforcement system emerged.

In response to the public demand, the new Government launched open discussions about the reform of the MIA and SSCEC from 2011 to 2012. Civil society representatives also joined the discussions. NGOs recommended eliminating the SSCEC and made alternative proposals for reforming the MIA. This resulted in the Government adopting an important document in 2013 "Measures to Reform the Internal Affairs Agencies by 2017."¹³⁵ However, this document included only some of the NGO recommendations, and only some of measures were implemented. Most critically, no significant change took place in the operations of law enforcement agencies, demonstrated in the low level of public trust they enjoyed. For example, only 23% of the population trusted the police, and 92% of citizens believed that the law enforcement agencies were corrupt.¹³⁶ The high level of corruption in public sector is supported by the annual public poll conducted by the International Republican Institute. In 2019, the poll showed that 70% of the population referred to corruption as a serious problem for the country. At the same time, 72% of citizens believed that government agencies

¹³⁵ Resolution, 2013.

¹³⁶ National Statistics Committee, 2019.

were not making sufficient efforts to fight corruption. As for the SSCEC, it was not dissolved: it has continued operating to this day.¹³⁷

In 2016, the first attempt to apply a comprehensive approach to reform the law enforcement agencies appeared to be underway with President Atambayev's decree on "Measures to Reform the System of Law Enforcement Agencies".¹³⁸ The reforms were designed to delineate functions and accountability among different law enforcement agencies, including the MIA, SCNS, SSCEC and Prosecutor General's Office. The measures outlined went further to eliminate duplication of functions among the agencies, strengthen coordination between them and improve the level of training and professional development of law enforcement officers.¹³⁹ However, the presidential decree did not contain reference to democratic governance principles such as transparency, accountability, or strengthening civic and public oversight. Moreover, on closer analysis the decree seems to have strengthened the role of the Prosecutor General's Office and SCNS. The President intentionally increased the influence of the two agencies being under his direct authority. In particular, it was proposed to strengthen the interaction of investigation departments in law enforcement agencies, such as the MIA and the SSCEC, with the Prosecutor General's Office to increase the latter's control over other security agencies.

Reform strategies for law enforcement agencies were mostly developed without broad engagement of the public. The heads of the security agencies used to develop, implement, oversee and evaluate the adopted measures.

To date, the level of citizens' confidence in law enforcement agencies remains the lowest among government agencies. For example, in 2019, only 11.6% of the population trusted the State Penitentiary Service, and even fewer, 4.1%, trusted the Customs Service.¹⁴⁰

The next section moves from the big picture to a more detailed assessment by setting out the important milestones of structural changes in the security sector agencies, essentially tracing the government attempts to transform the sector.

2.2. Reforms in the Security Sector

Armed Forces. The first reform in the armed forces was carried out in 1998. These reforms were aimed at reducing the number of staff, troops and military units of the Ministry of Defence.¹⁴¹ President Akayev believed the country did not need an army at the beginning of his term, as evidenced in his speech that "in principle, Kyrgyzstan does not need an army".¹⁴² His personal assessment was that countries with the ability to conduct an invasion were not aggressive towards Kyrgyzstan. Consequently, President Akayev saw no need to have a strong military. A small army was necessary simply as a token of statehood. Therefore, beginning in 1998, the first wave of the institutional transformation in the armed forces was aimed at reducing military

¹³⁷ Ibid.

¹³⁸ Presidential Decree, 2016.

¹³⁹ Ibid.

¹⁴⁰ National Statistics Committee, 2019.

¹⁴¹ Resolution, 1998.

¹⁴² Beishenov, 2013.

troops and units, and those working in support of the military. By the end of 1990s, the number of military personnel constituted 20,000, and subsequently, this number was reduced to 15,000, with 70-75% being contract-based soldiers.¹⁴³ In 1999, with a reduced headcount the Kyrgyz army faced an invasion in the south, namely in Batken. The Islamic Movement of Uzbekistan (IMU) militants entered Kyrgyzstan, who planned to reach the neighbouring Uzbekistan from Tajikistan through the Kyrgyz territory. According to the official data, the Batken conflict, which took place from 1990 to 2000, saw 54 military servants and 15 civilians dead and over 70 soldiers injured.¹⁴⁴

After the Batken conflict, the Government increased its focus on the army. Gradually more money was allocated to the underfunded armed forces. For instance, the defence budget amounted to USD 18.7 million (897 million som) in 2001, which constituted 1.2% of the GDP; whereas, it was already USD 22 million (1036 million som), i.e. 1.4% of the GDP, in 2002, and it reached USD 26.7 million (1233 million som), or 1,3% of the GDP in 2003.¹⁴⁵ Yet, these funds were insufficient to re-equip the army, which had to deal with the remnants of old Soviet military equipment. The Kyrgyz army remained the most under-equipped army in Central Asia.

In 2002, the Batken events also led to the adoption of a new military strategy, which remained in place until 2010. It included three stages of reform: 1) development of the new legislative framework in the military sector (2002–2003); 2) improvement of the armed forces through the provision of modern equipment (2004–2007); 3) building the capacity of the armed forces to enable their participation in the resolution of possible military conflicts in the Central Asian region (2008–2010). Only the first goal was achieved. To this day, the Kyrgyz army remains the weakest in Central Asia. In the 2020 Military Strength Ranking of the Global Firepower, the Kyrgyz armed forces ranked only 98th among 138 countries.¹⁴⁶ The armies of the neighbouring countries are significantly ahead. For example, Uzbekistan ranked 52nd, Kazakhstan ranked 63rd, Turkmenistan 77th, and Tajikistan 94th.

An important step in the management of the armed forces was the adoption of the 2013 Military Strategy, which stipulated the establishment of a new body, the General Staff. The new agency was created on the basis of the General Staff of the Ministry of Defence. In place of the Ministry of Defence, the State Defence Committee (SDC) was established. The General Staff was created to unite all military agencies in the case of armed hostilities. The General Staff was assigned with direct command of the army and all military units. The State Defence Committee became accountable for the development and implementation of military policy, inter-agency coordination in the defence sector, preparation of citizens for military service, conscription, alternative service and reservist training, personnel training, and technical and financial support to the General Staff.

Historically, the army remained free of political interference during Soviet times. These factors may account for the majority of the population, namely 68%, having a positive attitude towards the army, which represented the second highest score among

¹⁴³ Kabar.kg, 2018.

¹⁴⁴ Jogorku Kenesh, 2008.

¹⁴⁵ Kutnayeveva, 2007.

¹⁴⁶ Global Firepower, 2020.

government agencies following the Central Bank. However, the main problems of the Kyrgyz armed forces included not only insufficient provision of modern weaponry and insufficient personnel training, but also a lack of civic oversight, which resulted in the operation of military structures that were insufficiently transparent.

Ministry of Internal Affairs. The first attempts to reform internal affairs agencies were reflected in the 1998 “Concept for Development of the MIA System.” According to this Concept, the main objective of law enforcement system development in the country was to build the capacities of internal affairs agencies to enable them to protect citizens’ from crime.¹⁴⁷ However, most of the measures in the Concept were never implemented due to never being formalized as an adequate legal act and consequently receiving no funding.

In 2005, another attempt was made to transform police. The Presidential Decree enacted the “Concept for Reforming Internal Affairs Agencies Until 2010”. This Decree identified the following priorities: structural and functional transformations in the MIA system; a shift of priorities from protection of government interests to protection of citizens’ interests; increasing the professionalism of law enforcement officers and improving their capacities; establishing trust and a social partnership with the public; transparency and expansion of external accountability in police work; transformation of militia into the police service; and improvement of the legislation.¹⁴⁸ This reform resulted in the State Fire Safety Service and State Registration Service being removed from the MIA and transformed into independent agencies. The MIA retained the functions corresponding to its immediate purpose: ensuring public order and combating crime. In general, the announced transformations did not lead to qualitative changes in the work of the police, which was due to the fragmented nature of their implementation. Moreover, the reforms were not accompanied by political will and internal support within the MIA system itself.

Another stage of police reform took place in the time following the events of April 2010. The Government created an interagency commission, which held meetings to consider three concepts of police reform. These concepts were proposed by the MIA, the Working Group of the interagency commission, and by the NGO — Civic Union “For Reforms and Results.” The MIA concept envisioned de-politicization of police and transformation of militia into the police, which would include criminal, transport, traffic police, and community police. The objective was also to strengthen MIA’s investigative capacities through the creation of an investigation department. Moreover, it was proposed to recruit police officers through a competitive process. The second concept, proposed by the interagency commission, envisioned the introduction of a new high position of the Vice-Minister in the MIA. It was also proposed to recruit high-ranking staff through the State Personnel Agency, develop a new performance assessment system for police and outsource the functions that were not typical for the police.

The alternative concept put forward by the Civic Union “For Reforms and Results” envisioned that by the end of 2016, an entirely new public safety system would be

¹⁴⁷ Resolution, 1998.

¹⁴⁸ Order, 2005b.

created, geared towards the public interest. The concept included the following recommendations: to harmonize the national legislation in accordance with international human rights standards; provide constant monitoring of police practices for effectiveness and consistency with human rights principles; optimize the MIA structure; improve the personnel policy with mandatory staff rotation; depoliticize and partially demilitarize police, and introduce new methods to ensure transparency and accountability of the MIA to society.¹⁴⁹

However, the stakeholders did not succeed in agreeing on a strategy for police reform in 2011, and the work undertaken did not result in any official concept being approved. In 2013, the Government approved another document titled “Measures to Reform Police”. It established the tasks of strengthening the interaction between the police and society to focus police on protecting the human rights and freedoms, maintaining public order, providing high-quality police services to the population and implementing the Road Safety (Safe City) project. In addition, it was planned to introduce mechanisms for public oversight of police, form multi-ethnic manpower and promote gender equality.¹⁵⁰ The timing of the proposed measures was synchronized with the National Strategy on Sustainable Development from 2013 to 2017.

One of the significant results in the implementation of these measures was the 2015 Government Resolution, which approved the “Regulation on the Comprehensive Police Assessment Pillars”. The intention of this initiative was to introduce tools to assess public opinion of police work. The Regulation enabled external evaluations to be conducted taking into account public opinion in the assessment of police performance. While the decision was undoubtedly progressive, it was never fully implemented. Nor did the Government properly oversee whether the Regulation was implemented. External evaluation was only performed for two years from 2016 to 2017. During this time, the MIA commissioned a survey of public opinion, but due to the lack of funds the following surveys were suspended.

Following these attempts to reform law enforcement agencies in 2016, the President initiated Decree “On Measures to Reform the System of Law Enforcement Agencies.” However, the purpose of this decree seemed to be to strengthen the Prosecutor General’s Office and State Committee for National Security, as opposed to democratization of law enforcement agencies.

Under President Jeenbekov, authorities focused on ensuring road safety as part of the Safe City project. By implementing this project, the authorities tried to solve two main tasks: 1) respond to the long-awaited public demand to reduce the number of traffic accidents, and 2) improve public perceptions of the MIA and, hence, the Government-at-large. The Government decided to implement those programmes that would not threaten power-holders’ interests and if successful, had the potential to improve public perceptions. Implementation of the project started in February 2019. According to preliminary data provided by the authorities, the number of traffic accidents in places where video cameras had been installed decreased by 50% on average.¹⁵¹

¹⁴⁹ Reforma, 2011.

¹⁵⁰ Resolution, 2013a.

¹⁵¹ Azattyk.org, 2020.

Another change in the activity of the MIA was the implementation of a pilot of community police project, which was launched in the country's capital, Bishkek. The authorities intend to replicate this experience in the second largest city, Osh, and possibly in other big cities. The community police were meant to ensure traffic safety and public security and to provide rapid responses to emergency calls.

All officers of the community police, including the leaders, were selected through an open competition. Representatives of civil society organizations were included in the selection committee, which demonstrates a degree of openness. The ex-head of the Road Safety Administration and one of the deputies did not pass this selection process. Thirty percent of the employees of the new service are civilians.¹⁵² In addition, the deputy chair of Bishkek community police is a woman, which is a positive indicator.¹⁵³ In general, the number of women in police in 2019 was only 13%, and the share of women in leadership positions is even lower at 5.2%.¹⁵⁴

The community police programme was initiated and lobbied for by civil society. In 2017, a Working Group on Road Safety Service Reform was formed under the President's Office, which also included NGO representatives. This working group proposed to merge the Traffic Police and the Patrol Guard Service. Following the first few months of work of the community police, 37.6% of respondents assessed it positively, 22.5% negatively, and almost a third of respondents, 31.9%, rated the work as satisfactory.¹⁵⁵ Among those who had directly encountered community police, a larger percentage of 49.5% assessed it positively.¹⁵⁶

Initiatives to reorganize both public safety police and traffic police divisions were also introduced in the past. For example, tourist police was created in 2019 and the road safety agency underwent restructuring several times. However, those transformations did not lead to significant systemic changes, such as reduced level of corruption in these agencies or decline in traffic accidents. In general, community police and its recruitment principles are welcome changes, nevertheless it should be noted that systemic changes are needed in all internal affairs agencies. A fragmented approach undermines the sustainability of achieved results.

In comparison with other law enforcement agencies, the MIA turned out to be the agency most open to change. However, each new leadership of the Ministry of Internal Affairs developed a new reform programme, without considering the shortcomings of the previous ones. Today, the main problems faced by the MIA continue to be a high level of corruption, low capacity of police officers, weak transparency, continued politicization and militarization of police, and chronic funding shortage, which includes low wages and social benefits received by police officers.

¹⁵² KLOOP, 2019.

¹⁵³ Интервью с Тимуром Шайхутдиновым, руководителем Гражданского союза «За реформы и результат», 13 мая 2020 года.

¹⁵⁴ Knews, 2019.

¹⁵⁵ Reforma, 2020.

¹⁵⁶ Ibid.

State Committee for National Security (SCNS)

During the 30 years of the post-Soviet period, the SCNS has remained unreformed. In addition to the intelligence and counter-intelligence functions, the SCNS also performs policing functions, which are not characteristic of intelligence services, such as detainment of citizens; initiation of criminal cases; pre-trial investigations; searches; and prevention and combatting of mass disorders, corruption, smuggling and drug trafficking.

There is no effective civil and public control over the SCNS, and even parliament cannot oversee its activities. Overall, the SCNS has become an opaque and non-transparent agency. While there was public demand to transform the police, the situation with the SCNS is different. Due to the secretive nature of its activity, there is no public demand for the SCNS to be reformed.

State Penitentiary Service. According to the Concept for Penitentiary System Reform, the penitentiary system, which was previously a part of the MIA, was transferred under the purview of the Ministry of Justice in 2002. Later, in 2006, the National Program for Penitentiary System Reform by 2010, or Umut, was approved. It was the first programme in this sector.¹⁵⁷ The key objectives of the programme were to: humanize the penitentiary system; improve the living conditions of inmates; improve legislation, including rules on alternative punishment measures; demilitarize the penitentiary system; and ensure its transparency and public monitoring.¹⁵⁸ According to the State Penitentiary Service, the implementation of the Umut programme led to the abolition of the death penalty and humanization of criminal justice legislation. Moreover, the programme resulted in adopting amendments to the current Criminal Code to allow the use of alternative types of punishment rather than imprisonment, such as fines, probation and community service. It also led to the reduction of the maximum terms of imprisonment. Ultimately these changes contributed to the decline in the number of inmates. The number of prisoners as of 1 January 2007 constituted 15,127 inmates, but fell to 10,574 inmates in 2018.¹⁵⁹

The Umut programme was in effect until 2010, after which the National Strategy for Development of the Penitentiary System for 2012–2016 was adopted.¹⁶⁰ In the course of its implementation, 34 regulatory acts pertaining to the penitentiary sector were passed, including the new Penal Code and the law “On Probation”. However, many measures envisioned in the strategy were not implemented due to a lack of funding.¹⁶¹

In 2018, the Strategy for Development of the Penitentiary System for 2018–2023 was passed. It envisions modernization of the penitentiary system, defining the mechanism and means for restorative justice in accordance with the new Penal Code and international standards for the treatment of prisoners.¹⁶² This strategy is currently being implemented.

¹⁵⁷ Resolution, 2006.

¹⁵⁸ Ibid.

¹⁵⁹ National Statistics Committee, 2020.

¹⁶⁰ Resolution, 2012.

¹⁶¹ Resolution, 2018.

¹⁶² Ibid.

Although the penitentiary system has made progress in humanizing legislation, introducing alternative forms of punishment and reducing the numbers of prisoners, serious problems remain unresolved. The first is that the actual detention of prisoners is inconsistent with the standards of the new Penal Code. For example, both convicted adults and minors, first-time convicts and those previously convicted are held in the same facility. Despite the decreased number of prisoners, the number of those who had been previously convicted is growing, which demonstrates rising levels of crime among ex-inmates, currently reaching 40%. Jails are almost at full capacity, which in turn creates challenges for maintaining the health and other standards.

The number of staff in the penitentiary system is 3 times as low as required under the 2018 Strategy.¹⁶³ According to the International Centre for Prison Studies, “in most foreign countries, the ratio of prison personnel to inmates is 1:1, while in the Kyrgyz Republic, this ratio constitutes 1:6,” which leads to the reduced effectiveness of the penitentiary system.¹⁶⁴ For example, since the penitentiary system does not have specially trained personnel, those convicted of terrorism and extremism-related crimes pose an additional risk for other categories of prisoners.

The incidence of illness among prisoners remains high, exceeding that in civilian healthcare system. Moreover, the locations of penal facilities needs to be completely revised. Sixty-eight percent of jails are located in one province (Chui), which negatively impacts the situation on the ground. There are no jails in Osh, Batken, Talas, Naryn, and Issyk-Kul provinces, and there are no pre-trial detention centres in Batken, Talas, and Jalal-Abad provinces. Hence, significant budgetary funds are spent on escorting convicts to the pre-trial detention centres in other provinces.¹⁶⁵

3. Offences Committed by Security Sector Officers

Common offences committed by law enforcement and military officers concern corruption. During a Security Council meeting held in February 2018, President Sooronbay Jeenbekov observed that government agencies designed to fight corruption are themselves corrupt.¹⁶⁶ In the 2017 Annual Report, the Prosecutor General indicated for that year the authorities had initiated 1,037 cases of corruption, including cases against representatives of law enforcement agencies.¹⁶⁷ In 2013, the Prosecutor General’s Office reported that 142 corruption crimes were detected in law enforcement and judicial bodies, including 54 in the Ministry of Internal Affairs, 16 in the Customs Service, 13 in the State Penitentiary Service, 3 in the SSCEC, 2 in the State Committee for National Security, 2 in the State Service for Drug Control, 2 in the prosecution agencies, and 20 in the courts.¹⁶⁸ As shown in the above statistics, the leader in the number of corruption crimes is the MIA, which recognizes corruption cases in its report on the Implementation of Recommendations of the 4th Monitoring Round of the Istanbul Anti-Corruption Action Plan.¹⁶⁹ This report indicates that in 2019, the MIA

¹⁶³ GSIN.

¹⁶⁴ Penitentiary System Strategy, 2018.

¹⁶⁵ GSIN.

¹⁶⁶ President, 2018.

¹⁶⁷ Prosecutor’s Office, 2017.

¹⁶⁸ Ibid.

¹⁶⁹ MIA, 2019.

initiated 41 criminal cases against 45 employees, of which 26 cases were opened on corruption-related facts, 1 on fraud, 1 on negligence and 23 cases on other crimes.

Although criminal cases are initiated against law enforcement officers and employees of other government agencies, a significant part of them are not brought to the court proceedings. Of the 704 cases initiated in 2017 by the prosecution offices on corruption, only 173 cases (24.57%) were submitted to the court, 244 cases (34.65%) were under investigation, and 287 cases were terminated (40.7%).¹⁷⁰ In other words, in 40.7% of the cases the perpetrators were not punished.

The next common type of offence is torture and ill-treatment of citizens. From 2016 to 2018, the Prosecutor General's Office received 1,140 complaints from citizens on the use of torture and other cruel, inhuman and degrading forms of treatment by law enforcement officers.¹⁷¹ Specifically, there were 435 such cases received in 2016, 418 in 2017 and 287 in 2018. In the overwhelming majority of these cases, namely in 1076 cases (94.4%), police officers were identified as the perpetrators. They are followed by employees of the SCNC, which had 12 cases, the State Penitentiary Service with 3 cases, and the State Service for Drug Control with 2 cases. In nine out of ten cases, torture was used to force the detained to confess to a crime.¹⁷² However, criminal cases of torture are rarely initiated against law enforcement officers. For example, in 400 out of the 435 complaints registered in 2016, which represented 92.4% of cases, the Prosecutor General's Office refused to proceed. In the first 9 months of 2017, the situation was the same with 287 out of 325 statements or 88.3% not proceeding.

The National Centre of the Kyrgyz Republic for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment was established in 2012 with the aim of preventing torture and ill-treatment of prisoners and detainees. The National Centre has documented in its annual reports the widespread use of torture by law enforcement officers. The National Centre observes that the reasons for the continued use of torture by law enforcement officers are: ineffective investigation of the facts of torture; lack of independent and accessible complaint mechanisms in all places of detention; ineffective recording of cases concerning torture and ill-treatment; ineffective work of lawyers to protect the interests of persons detained or suspected of a crime; and an inadequate response by the courts to the defendants' statements referring to torture or confessions under physical and psychological pressure.

As for the army, there have been reports of so-called "dedovshchina", which is the abuse of younger conscripts by senior soldiers and deaths of soldiers, including by suicide.¹⁷³ In 2014, 12 military servants died, including 7 from suicide and 2 due to accidents. In 2018, there were 4 instances of suicide and 1 attempted suicide.¹⁷⁴ According to the Prosecutor General's Office, 65–70% of all crimes in the armed forces were offences related to unauthorized abandonment of duty stations by military servants and desertion.¹⁷⁵ In 2017, the Military Prosecutor's Office handled 298 such criminal cases and 77.8% of these cases were sent to the court. Most people found

¹⁷⁰ Coalition, 2018.

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ Ombudsman, 2016.

¹⁷⁴ Ibid.

¹⁷⁵ Prosecutor's Office, 2017.

guilty of criminal offences were from the General Staff, which had 62 cases, the State Border Guard Service with 51 cases, and the State Defence Committee with 38.¹⁷⁶ The armed forces are also faced with the issue of corruption. For example, in 2017 there were 35 cases of abuse of office, 13 cases of abuse of official powers and two cases of bribery.¹⁷⁷

4. Civic Oversight of the Security Sector

In addition to the Prosecutor General's Office, government agencies authorized to oversee the activity of security sector agencies include the Parliament, Accounts Chamber, Ombudsman's Office and National Centre for the Prevention of Torture and Other Cruel Treatment.

Parliament

In accordance with national legislation, Parliament (Jogorku Kenesh) has broad powers to exercise oversight over military and law enforcement agencies. The Jogorku Kenesh has two standing committees in charge of issues concerning security, law and order: the Committee on International Affairs, Defence and Security, and the Committee on Law Enforcement and Combating Crime and Corruption. Along with parliamentary committees, party factions and individual MPs have the right to assess the implementation of laws adopted by the Jogorku Kenesh. The law "On the Procedure for Exercising the Oversight Function by the Jogorku Kenesh" provides MPs with a number of instruments to exercise their oversight functions.¹⁷⁸ The Jogorku Kenesh can conduct parliamentary investigations, send inquiries to security agencies, hear reports from heads of government agencies, including heads of law enforcement and security agencies, and review annual reports of the cabinet. If the Jogorku Kenesh disapproves the progress report by the cabinet, this can result in the Government being dismissed, as was the case with the then cabinet led by Sapar Iskakov, whose report was not approved by the Parliament in 2018. The Jogorku Kenesh can organize Parliamentary hearings, conduct inspection visits to the government facilities such as prisons, conduct "Government Hours" and "Government Days" when the Ministers report on the implementation of certain laws and programmes adopted by Parliament.¹⁷⁹ The Parliament can assign the Accounts Chamber to assess the implementation of the national budget. The Ombudsman can be assigned to study the observance of citizens' rights and freedoms in a particular sector. Parliament can also engage the National Centre for the Prevention of Torture and Other Cruel Treatment to review the torture-related complaints.

In practice, Parliament considers passing laws to be its key priority and pays less attention to its oversight functions.¹⁸⁰ Overall, parliamentary oversight is rather sporadic and not systematic. This is particularly the case as regard law enforcement agencies, such as the SCNS. First, the Parliament does not have the power to appoint and dismiss the head of the SCNS, and hence, cannot influence the work of SCNS. Second,

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Law, 2004b.

¹⁷⁹ Ibid.

¹⁸⁰ Alymbaeva, 2020.

MPs have no political will in assessing the activities of the SCNS. The SCNS has the power to investigate cases of corruption against MPs. The SCNS has already held members of the Jogorku Kenesh criminally liable. For example, seven legislators of the current Jogorku Kenesh were prosecuted during the period 2015 to 2020. Consequently, MPs may avoid evaluating or criticizing the work of the SCNS for fear of possible prosecution.

In addition, Parliament has not developed clear procedures for overseeing law enforcement agencies. As a rule, MPs only start working on an assessment after high-profile incidents or crises. Another factor inhibiting comprehensive parliamentary oversight of the security sector is the lack of MPs' access to sufficient information on the activities of law enforcement and security agencies. MPs assess the work of these agencies based on the data provided by the agencies themselves. No alternative sources of information exist. Another problem is that MPs are not always qualified to assess the work of law enforcement agencies. These factors, along with others, determine the lack of effective parliamentary control over the national security agencies.

Accounts Chamber

The Accounts Chamber is a governmental audit body. Under the law, "On the Accounts Chamber," it performs the audits on the implementation of the national budget, its efficiency, and financial audit.¹⁸¹ The Accounts Chamber can perform an audit by the request of Parliament and the President. According to the information available on its public website, the Accounts Chamber has audited only two law enforcement agencies during the past five years. These were the State Customs Service and the Ministry of Emergencies. Audit reports on other law enforcement agencies are not publicly available. It is possible that they have been audited by the Accounts Chamber, but classified audit reports are not available to the public. However, even if this information is classified, the Accounts Chamber must provide the public with a brief overview of its conclusions on auditing law enforcement agencies, which will allow the public to understand how taxpayer funds are used for security and law and order.

It can be concluded that the potential of auditors of the Accounts Chamber are not fully utilised by MPs to ensure control over the use of public funds in law enforcement and military bodies.

Ombudsman

Compared to other Central Asian countries, the Ombudsman is a more open and vocal institution in Kyrgyzstan. The Ombudsman can criticize the activities of law enforcement agencies through making official statements, sending submissions on law enforcement officers needing to be held liable for disciplinary or administrative misdemeanours, and issuing orders to eliminate identified violations of rights and freedoms. The Ombudsman's Office has published several special reports on the security sector, which document human rights violations in law enforcement agencies. For example, the following special reports were prepared: "On the Observance of Citizens' Rights in the Conscription Process," "On the Observance of Military Servants' Rights," "On

¹⁸¹ Law, 2004a.

Social Guarantees to Law Enforcement Officers,” “On the Observance of the Right to Health Care in Correctional Facility No. 2.” Four of the seventeen special reports issued by the Ombudsman were devoted to issues concerning compliance with human rights by law enforcement and security agencies.

However, the Ombudsman cannot be considered fully independent. The legal status of this role is subordinate to the Parliament, which paradoxically results in reduced efficiency of the former. The Ombudsman must submit his or her annual report to Parliament, and can be dismissed if the report is found to be unsatisfactory. The Ombudsman’s work can be found unsatisfactory on arbitrary grounds. Such pitfalls reduce the impartiality and independence of this institution. Moreover, the Ombudsman’s Office faces numerous institutional problems, such as rapid turnover of personnel and limited awareness of the Ombudsman’s activities among the public. These factors reduce the institution’s effectiveness.

National Centre for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (National Centre)

The National Centre was established in 2012 by the Government of the Kyrgyz Republic to fulfil its commitments under the Convention against Torture. Under law, the Centre is an independent body. In accordance with the law on the National Centre, it handles issues concerning preventing the torture and ill-treatment of detainees and prisoners and following-up on investigations and trials. It is authorized to monitor torture and to report on the use of torture and ill-treatment to prosecution agencies. Annually the Centre submits a report on the prevention of torture and ill-treatment to the Jogorku Kenesh. The National Centre’s work resulted in increased reports of torture and helped to identify more people who had been subjected to torture. For example, 199 reports of torture were registered in 2015, and this number increased to 209 in 2016.¹⁸² However, the percentage of cases being brought to court and resolved remains very low. The recommendations presented by the National Centre in its annual reports are not implemented by government agencies, including law enforcement agencies.

5. The Role of Civil Society Organizations in Reforming the Security Sector

Civil society organizations (CSOs), especially human rights organizations, have long campaigned for reforms in the security sector. They have provided recommendations and strategies for changing the operation of law enforcement agencies. For example, CSOs proposed concepts for reforming the MIA following the revolutions of 2005 and 2010. CSOs are also actively involved in the law-making process, submitting proposals to improve the regulatory framework in the security sector. For example, CSOs developed and lobbied for a number of laws, including the Law “On Protection against Domestic Violence,” adopted by the Parliament in 2017, the Law “On the National Centre for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment” (2012), and the Law “On Access to Information,” (2007). In 2018, CSOs recommended that the Parliament form a separate committee to oversee the SNCS by amending the Law “On the Procedure of the Jogorku Kenesh” with relevant pro-

¹⁸² National Centre, 2016.

visions.¹⁸³ CSO recommendations on humanizing criminal justice were incorporated into the new Panel Code and the Misdemeanour Code adopted in 2018. Also, CSOs made proposals to the National Action Plan to implement United Nations Security Council Resolution 1325 on “Women, Peace and Security”.

CSOs lobbied for the ratification of international conventions by Kyrgyzstan. These included the Convention on the Elimination of All Forms of Discrimination against Women, which Kyrgyzstan ratified in 2002; Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty ratified in 2010; Convention against Transnational Organized Crime, ratified in 2003, along with the two Protocols, “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children” and “Protocol against the Smuggling of Migrants by Land, Sea and Air”. CSOs monitor whether Kyrgyzstan is in compliance with these conventions and other international human rights obligations, develop alternative independent reports, such as the Shadow Report to the United Nations Office of the High Commissioner for Human Rights’ Universal Periodic Review or the report to the United Nations Committee against Torture.

CSOs are actively involved in the work of Public Councils functioning under the Ministry of Internal Affairs, State Penitentiary Service, State Service for Combating Economic Crime, State Customs Service, and State Defence Committee. They make suggestions to improve the work of these structures.

The lack of political will to change the security sector leads to numerous CSO proposals remaining unaddressed and not being implemented. Another problem is that the small number of CSOs working in this area cannot cover and continuously promote the numerous issues that are essential to improving the functioning of the sector. This concerns not only substantive issues, but also matters of budget, personnel and procurement. For example, only 2 or 3 CSOs work on the issues concerning the Armed Forces. It is predominantly human rights organizations that work in this sector. The security sector is an underdeveloped niche for CSO activity. Therefore, continuous strengthening of CSO capacity in oversight of the security sector remains a challenge.

Findings

Kyrgyzstan has established a broad legislative framework for managing security sector agencies. However, national security agencies have been viewed by the authorities not as an integrated sector, but rather as fragmented agencies. Consequently, the development and implementation of reform strategies in various security agencies were not synchronized. Due to this fragmented approach, there was increased competition between law enforcement agencies and duplication of functions. In general, law enforcement agencies have failed to reorient their activities towards providing quality services to the population and integrating democratic principles of governance.

Out of all the security sector agencies, the MIA can be considered relatively transparent in its operations. Recently, it has made progress on initiatives to introduce digitalization to ensure traffic safety as part of the Safe City project and the community police in Bishkek.

¹⁸³ Kaktus.kg, 2018.

The situation in the security sector can hardly be expected to change dramatically in the near future, but nonetheless partial transformation is possible. Due to public pressure, the authorities may be forced to compromise, which will result in selective reforms being undertaken.

Recommendations on Advancing Security Sector Reform

Crucial to significant reform taking place in the security sector is the political will to do so. To assist the reform process, donors should focus on strengthening civic and public oversight over law enforcement agencies. It is especially advisable to build the capacity of CSOs, which will assist them in addressing issues that are normally outside of their area of expertise such as efficient budget use and external assessment of law enforcement agencies. Capacity-building is also important for CSOs to be more aware of the global best practices in this sector. International practices concerning the effective civic oversight of military and law enforcement agencies should be implemented in the work and administration of Parliament, Accounts Chamber, Ombudsman's Office and National Centre against Torture.

Another potential area is to undertake regular research and polling of public opinion on various security issues, which are not funded by government agencies due to a lack of funding. In Kyrgyzstan, a security needs assessment is not conducted that would provide the authorities with a more comprehensive understanding of the security needs of the general population, which provides a break-down along the lines of ethnicity, age and gender. Many existing government policies and law enforcement programmes emphasize the need for such research. For example, the State Program on Combating Extremism and Terrorism for 2017-2022 emphasises the importance of conducting research in order to assess the impact of a particular policy on human and social security. The international community could provide real assistance to Kyrgyzstan in organizing and conducting various studies and surveys, contributing to the strengthening and development of the security sector.

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Tajikistan Security Sector Review: Reforms and Their Results

Parviz Mullodzhanov

Introduction

For nearly three decades, the law enforcement system of Tajikistan has been shaped by a number of internal and external factors. Internal factors include the military and political environment which emerged immediately after the collapse of the Soviet Union and attainment of independence. The country has gone through a five-year civil war (1992-2007), a complicated post-conflict period and several socio-economic upheavals. Additionally, it has been difficult to establish national accord and facilitate stability due to the unresolved issues of regionalism, unequal access to administrative and economic resources, and clashes among establishment forces. Throughout these events, the authorities treated the law enforcement agencies as the key tool for maintaining political stability and statehood.

External factors included the influence of the countries of the former Soviet Union that were going through similar reforms. In parallel, Tajikistan can learn much from the experiences of other countries, primarily developed democratic countries, which in many respects are establishing international standards for modern security agencies. As a member of the international community, Tajikistan must implement its commitments on human rights and regulation of the security agencies. Recently, the experience of China has had a significant impact on the Tajik security system. Through its tight control of its law enforcement agencies, China has demonstrated how a population can be controlled. An aspect that is particularly attractive for many post-Soviet regimes. Development of the Tajik security sector has also been influenced by the Afghan factor and continuous instability in the border area near northern Afghanistan.

To a large extent, the different factors outlined have shaped the Tajik law enforcement system. With that in mind, a whole host of questions arises. Is the reform of the Tajik security system complete or is the process still ongoing? What so far has the reform process entailed? What did it specifically address? And to what extent are the current structures and work of the law enforcement in line with the key international commitments related to human rights and democratic values undertaken by the Tajik authorities? These questions have partially been considered in the reports and studies performed by various international organizations and expert groups, such as EUCAM (European Union Central Asia Monitoring Group — a Working Group monitoring relations between the European Union and Soviet Central Asia), DCAF (Geneva Centre for Security Sector Governance) and independent experts, such as Anna Matveeva and Erika Marat.¹⁸⁴ However, these studies mostly cover the period between 2011 and 2016 when the reforms of the Tajik security sector were only just launched. A thorough assessment and analysis is therefore needed. Thus, apart from examining the structure and process of security sector reforms, this article will summarise the preliminary results of the reforms.

1. Security Sector System in the Republic of Tajikistan: Structure, Mandate and Responsibilities

The security and defence sector system of the Republic of Tajikistan continues to largely resemble the Soviet model adapted to the local context and new circumstances. The system comprises the Ministry of Defence, State Committee for National Security (SCNS), Ministry of the Interior, Prosecutor General's Office, and Financial Control and Anti-Corruption Agency. Similar to the Soviet model, Border Control Forces in Tajikistan are part of the SCNS structure, while prisons are under the responsibility of the Ministry of Justice.

Following the implementation of the 1997 Peace Agreement, which ended the civil war, the structures and work of the security sector remained unchanged. Starting from the 1990s, empowerment of the Ministry of the Interior and the SCNS was emphasised, which included the most combat-effective and professionally trained forces. It is very likely that the security sector developed this way due to the fact that most threats to the stability came from within the country.

The Ministry of Defence of the Republic of Tajikistan (MDRT) is the main security agency in Tajikistan. It is in charge of the country's Armed Forces and National Guard and responsible for procuring equipment for military units. The MDRT also supervises two high educational institutions: the Military Institute of the Republic of Tajikistan and M. Tashmukhamedov Military Lyceum of the Ministry of Defence of Tajikistan.

The MDRT management structure consists of thirteen units including the Educational Department, Department of Engineers, Technical Department, Air Force, and Operational Department.

The Armed Forces comprise the Ground Forces, Mobile Forces, Air Force, and Air Defence Force. The Mobile Force is the strongest and most well-trained corps in the overall structure of the Armed Forces. It consists of Troop-Carrying and Mountain Units, and Special Operations Forces.

The strength of the Mobile Force is comparable to that of the Ground Forces, each having approximately 20,000 soldiers. Such an imbalance in favour of special operations forces can be attributed to the fact that, from the very beginning, the Tajik Army was largely designed not to rebuff external threats, but rather to maintain security inside the country.

The Armed Forces recruit personnel on a contract basis, and through draft call ups. The draft service is a duration of two years; one year for military personnel with a higher education. Normally, approximately 15,000 to 16,000 men are called annually in to the Armed Forces and the same number is discharged.¹⁸⁵

The National Guard of the Republic of Tajikistan is an individual military force for special operations that is under the direct authority of the Commander-in-Chief of the Armed Forces, which is the President.¹⁸⁶ According to national law, the responsibilities of the National Guard include maintaining security during protocol meetings, implementing security measures, intelligence-gathering, and carrying out technical and

¹⁸⁵ Призыв в армию в Таджикистане 2020: 1 апреля. Доступно по адресу: <https://tj.sputniknews.ru/country/20200331/1030984597/Tajikistan-1-aprelya-vesenniy-prizyv-armia.html>.

¹⁸⁶ Закон О Национальной гвардии Республики Таджикистан. Доступно по адресу: http://factmil.com/publ/strana/tadzhikistan/zakon_o_nacionalnoj_gvardii_respubliki_tadzhikistan/82-1-0-83.

other measures to protect state property. Essentially, it is similar to the USSR Internal Forces in terms of its mandate and responsibilities.

In accordance with national law, the State Committee for National Security SCNS is an executive agency of the Government. It is both a special service and an intelligence and counter-intelligence unit that works to maintain national and state security. The SCNS is a successor of the State Security Committee of the Tajik Soviet Socialist Republic. This continuity is seen not only in the training methods and operation style of the SCNS, but also in its philosophy and outlook on internal and external threats.

The SCNS is authorised to conduct pretrial investigations and inquiries, and to gather intelligence. In accordance with national law, the SCNS is led by the President. As was the case for the Soviet Union's KGB, the Tajik SCNS is authorized to create units in the regions, cities and localities of the country, along with divisions of security and law enforcement ministries, to fulfil its mandate. Under Article 5 of the Law on the SCNS, within the structure of the organisation is a special operation unit, which is mandated to prevent terror attacks, subversion and other dangerous crimes.¹⁸⁷

The Border Control Forces, which is represented by the Central Office for the Border-Security Troops, is headed by a Deputy Chair and constitutes a part of the SCNS structure. In order to protect the Tajik state borders, the Committee of National Security supervises the Border Control Forces and performs intelligence, counter-intelligence and law-enforcement operations.¹⁸⁸

The Ministry of the Interior (MoI) to a large extent replicates the structures of the former Soviet Union, but unlike the Soviet militia, the Tajik MoI comprises a number of combat-effective units and special forces equipped with heavy weaponry. Previously and over an extended period of time, the MOI was better equipped and with a greater capacity than the National Army.

According to the Law titled, "On the Police (Militia)", the Police are responsible for protecting life, health, rights and freedoms of Tajik citizens; foreigners; persons without citizenship; to fight crime; to maintain public order; to protect property; and maintain public security.¹⁸⁹ The Police is made up of various agencies, units and departments, such as the Criminal Investigation Directorate, Office for Fighting Illicit Traffic in Narcotic Substances, Organized Crime Control Bureau, Directorate for the Protection of Public Order, Criminal Investigation Directorate, Directorate of Criminal Expert Assessments, Passport Registration Office, and Road Patrol Service.

A special role in the Tajik system is traditionally assigned to the so-called "6th Department," or the Bureau for Organized Crime Control, which is a legacy from the former Soviet Union and exists in many post-Soviet countries. The 6th Department has the tasks of combatting organized crime and subversive activities of terrorist groups.

¹⁸⁷ Қонуни ҶТ «Дар бораи мақомоти амнияти миллии ҶТ» (Закон Республики Таджикистан «О подразделениях национальной безопасности»).

¹⁸⁸ Закон РТ О Государственной границе Республики Таджикистан. Доступно по адресу: <https://tajtrade.tj/media/%E2%84%96%20481%20law%20about%20the%20State%20Border%20of%20the%20Republic%20of%20Tajikistan.pdf>.

¹⁸⁹ См. Закон Республики Таджикистан «О милиции».

The Prosecutor General's Office (PGO) monitors and ensures compliance with the law of the state authorities, enterprises, institutions, organizations, public officials and citizens (general supervision). The same kind of supervision is exercised by the PGO over the law enforcement, defence and security agencies, including the Armed Forces, MoI, SCNS and penitentiary institutions.

The responsibilities of the PGO include elaboration of measures to prevent crime; combatting corruption, terrorism, and extremism; and in these different contexts, coordinating the work of security, defence and law enforcement agencies. The PGO also has the right to participate in court sessions and submit notices of opposition regarding unlawful court judgments.¹⁹⁰

The PGO includes the Military Prosecutor's Office, which exercises control over compliance with national laws in the operations of the Armed Forces. At the regional and district levels, the PGO is comprised of territorial units. Specialized Prosecutor's Offices have been established at the regional level, which address transportation, and Offices to ensure the enforcement of national laws in the correctional facilities.¹⁹¹ It is noteworthy that the PGO website emphasizes that its "personnel always support the policies of the State and Government," which is a vivid illustration of how the functions and the mission of law enforcement agencies are interpreted in modern Tajikistan.

The General Authority for Sentence Enforcement (GASE) is part of the Ministry of Justice. A Deputy Minister of Justice also serves as the Head of the GASE. According to GASE data, as of 2019, Tajikistan had 18 correctional facilities, including 5 detention centres, 8 prisons of different security levels, 1 educational prison for juveniles, 1 ordinary prison, and 3 open prisons. Today, over 12,000 inmates are held in those correctional facilities, which is fewer than in most other Central Asian republics.¹⁹²

2. Reform of the Security Sector in Tajikistan

In Tajikistan, the reorganization of security and law enforcement agencies started immediately following the collapse of the USSR and the beginning of the civil war. These processes were completed by the mid-2000s, and ever since have remained unchanged. However, further reforms and the implementation of international standards and norms are ongoing.

The Government of Tajikistan, international organizations and local NGOs are the key initiators and executors of the reforms. The international organisations include the OSCE, UNDP, Bureau of International Narcotics and Law Enforcement Affairs. Most of these have offices based in Tajikistan. One of the latest major projects aimed at reforming the MoI is implemented by Saferworld with the assistance of OSCE and a number of other organizations. The Tajikistan leadership and authorities also initiate projects with the purpose of improving the level of professionalism and updating the law enforcement system.

¹⁹⁰ Генеральная Прокуратура РТ, веб-сайт. Доступно по адресу: <http://prokuratura.tj/>.

¹⁹¹ Генеральная Прокуратура РТ, веб-сайт. Доступно по адресу: <http://prokuratura.tj/>.

¹⁹² В Таджикистане – самое меньшее количество заключенных в Центральной Азии, Avesta tj. Доступно по адресу: <http://avesta.tj/2019/02/28/v-tadzhikistane-samoe-menshee-kolichestvo-zaklyuchennyh-v-tsentral-noj-azii/>.

The reform and reorganization of the security system in Tajikistan can be divided into three stages.

The first stage, which was essentially a reorganization of the security system, got underway in late 1992 with the formation of the current Government led by President Emomali Rahmon. This initial stage coincided with the peak of the civil war when Tajik security, defence and law enforcement agencies were brought to a standstill and unable to exercise their functions. At the time, Tajikistan's KGB was the only exception and as a result, immediately became a major buttress of the new Government. This background explains the role played by the SCNS in the modern-day political system of Tajikistan.

Upon the assumption of power, the new Government prioritized the reorganization of the MoI and establishment of the national army. The former Defence Committee was transformed into the Ministry of Defence. It received broader powers and significant resources. Unlike other former Soviet Republics in Central Asia, after the collapse of the Soviet Union, Tajikistan did not inherit any weaponry of the former Soviet Union's Army. Therefore, the National Army had to be established from scratch. The forces of the People's Front, which was a military and political movement fighting on the side of the Government against the United Tajik Opposition (UTO), became the core of the Army.

The change of government marked significant changes in the country's security and law enforcement systems. Alongside changes to the political leadership, the field commanders of the People's Front attained power and formed the foundation of the new Tajik Army.

The staff composition of the MoI also changed. One of the most famous crime lords of the Soviet Union period, Yakub Salimov, was appointed as the new Minister of the Interior.¹⁹³ Salimov recruited personnel who either had a criminal history or who had no experience with law enforcement. For instance, paramilitary armed groups led by field commander Faizali Saidov were transformed into Brigade 11 of the Ministry of Defense. Meanwhile, the First Brigade of MORT was established on the basis of former paramilitary units headed by Mahmud Khudaiberdiev. At the same time, a number of opposition commanders were recruited to the MoI law-enforcement units, special operations and police units.

As a result, a network of semi and independent warlords, many of whom formally worked at the law enforcement agencies, was established. A number of these individuals were actively engaged in crimes in the very territories they were responsible for officially supervising, which enabled them to independently procure arms and raise funds for their troops. During this period, the influence of the central government on the regions was very limited, and the field commanders were exercising powers of the law enforcement and security agencies within their areas of influence.

Over this period, two conflicting trends were prevalent throughout Tajikistan's security and defence sector. First, common trends were the combination of increasing

¹⁹³ «Худжа-командир», Гаффор Седой, Якуб Салимов: Кто входил в «Парламент боевиков»? Азия-плюс. Доступно по адресу: <https://asiaplustj.info/ru/news/tajikistan/society/20200218/hudzha-komandir-gaffor-se-doi-yakub-salimov-kto-vhodil-v-parlament-boevikov>.

criminalization, lowering professional standards and excessively influential warlords and militant groups, many of which were nominally part of the MoI and Ministry of Defence. Second and in contradiction to these trends, the Government made successive attempts at balancing out the existing network of independent field commanders, improving professionalism of the law enforcement agencies and the purging of criminals from the system. During the civil war, law enforcement agencies worked in the so-called mode of documentation, when the wrongs and delinquencies of each field commander were recorded. The end result was an accumulation of compromising information, which if necessary, could be used at any time.

Obviously, at that time, the security system was aimed at solving purely political and military problems, whereas the human rights issues and compliance with the international standards were not the priority.

The second period was characterized by decriminalization and centralization. It started with the signing of the Peace Accords and ending of the civil war in 1997. Under the Accord, the UTO militants were integrated into the relevant ministries. The Government had an opportunity to neutralize the most notorious field commanders and integrate others into everyday life. As a result, within a decade following the Peace Accords, the majority of field commanders were forced out of security, law enforcement and defence agencies, and instead replaced by career officers.

By the mid-2000s, security, law enforcement and defence agencies were gradually purged of former militants and Tajik Opposition supporters. The latter group had been integrated into these different organisation in accordance with the 30% quota outlined under the Peace Accords. After signing the Peace Accords, 4490 soldiers out of 6890 registered soldiers with the United Tajik Opposition (UTO) took a military oath and were integrated into security, law enforcement and defence agencies.¹⁹⁴ The majority of these started serving at the Ministry of Emergency Situations, headed by a prominent UTO field commander, Mirzo Zieev, who was granted the rank of general. At the Ministry of Defence, the integrated UTO soldiers formed Battalion 25, while other former opposition troops became part of the Border Control Forces.

However, according to the Peace Accords, the 30% quota was valid until the following Parliamentary elections in 2001, and afterwards would become optional. Ultimately, in 2009, the majority of the former UTO militants left the security, defence and law enforcement agencies. Some were eliminated during police operations from 2010 to 2011 and the suppression of anti-government riots in September 2015.¹⁹⁵

Another trend was gradual decriminalization of the agencies in question, i.e. the dismissal of staff with a criminal record. Today, law enforcement agencies have a very stringent rule, according to which people with a criminal record or those who have family members with a criminal record cannot be employed. Furthermore, each candidate must undergo a three-month verification period during which background checks are conducted on their political leanings and potential ties to the criminal world.

¹⁹⁴ Саъдиев Ш. С. «Таджикистан: путь к миру и согласию», Ирфон, Душанбе, 2002, с. 22.

¹⁹⁵ «Бежавший генерал. Кем был Ходжи Халим?» Радио Озоди Liberty. Доступно по адресу: <https://rus.ozodi.org/a/27231015.html>.

When the Peace Accords were negotiated and signed, there was an increasingly prominent trend towards transferring the most combat-effective units to the Mol and the Mobile Forces, which were established in 2003. A possible cause is that in the peace negotiations, the UTO required that several key positions in the MDRT be given to the opposition. Whatever the reasoning, in terms of their professionalism and level of equipment, the combat troops of the SCNS, Mobile Forces and Mol are the best in the country.

The 2000s witnessed rapid growth in the number and influence of nongovernmental organizations and the civil society sector in Tajikistan. The dynamics of the sector's development speaks for itself: in October 1998, there were 400 registered NGOs, in February 1999 there were 460, in July 1999 the total number had reached over 500, and by 2006 the number grew to 2800.¹⁹⁶ During this period, an extensive network of human rights and gender organizations emerged. Some of these, for instance the Bureau for Human Rights, are directly involved in addressing the abuse of power by security, defence and law enforcement agencies.

Overall, this period is marked by two contradictory trends. On the one hand, it was characterized by steady centralization of power, with law enforcement agencies being firmly integrated into the power structures. On the other hand, civil society was developing, with an increase in the number of professional human rights NGOs, which over time could counter the growing tilt towards politicization of the security system.

The third period started around 2010, when the Government started considering further reform of the system under the pressure of international partners and donor countries. However, the parties had different perspectives on the overall objectives of the reforms. The Government regarded the reforms as an opportunity to improve the effectiveness, professionalism and resourcing of its security and defence forces. In this context, "effectiveness" is understood as the ability to control the situation in the country and prevent destabilization.

In contrast, for international partners and local civil society, the reforms were to align the security system and the activities of the security, defence and law enforcement ministries with the international standards and commitments undertaken by the Tajik Government. Ultimately, these conflicting views have negatively impacted the reforms of the law enforcement agencies and security system of the country.

¹⁹⁶ Civil Society Development in Tajikistan, AKDN Report, 2007, p. 17.

Considering this background, the reform process was focused on the following areas:

Reform of the Ministry of the Interior: one of the key targets of the reforms was the Mol. In 2010, reform of the Mol was first announced, and it took almost two years to elaborate on a strategy and philosophy. As noted above, the Mol authorities saw the reform as an opportunity to improve the professionalism of the police force, whereas international partners were focused on the democratization of security, defence and law enforcement agencies. In 2013, the Police Reform Strategy was unveiled, which aimed to be completed by 2020. Then, in May 2014, the Police Development Reform in Tajikistan for 2014-2020 was presented and this was followed in January 2017, with publication of Draft Law on the Police.

However, experts believe that the new Police Reform Strategy was not largely different from the already existing 2004 Law on the Police, which is largely silent on the human rights breaches carried out by law enforcement officers.¹⁹⁷ That is why it comes as no surprise that so far, the reform has been limited to a few projects, which are initiated and sponsored by several international organizations such as the OSCE. These were aimed at establishing and improving the relationship between the population and law enforcement agencies. Another example of the low level of ambition is that in 2020, the Tajik militia were to be renamed the “police.” Understandably, civil society representatives have underlined that ten years of reform have failed to achieve systemic and profound transformations of the Mol.¹⁹⁸

Reform of the Ministry of Defence: in February 2012, the Minister of Defence, Sherali Khairulloev, officially announced the start of the reform process for the National Army.¹⁹⁹ According to Khairulloev, the operations and structure of the Armed Forces would remain the same, but they would be reinforced with new technology and modern weaponry. Essentially reform of the Armed Forces focused on upgrading and re-equipping weaponry, along with improving combat capability and professionalism of military personnel. In the context of the deteriorating situation in Afghanistan, a decision was made to significantly expand the Armed Forces, especially the Special Operations Forces, Air Reconnaissance and Ground Attack Air Force.

The upscaling of the Armed Force’s equipment was facilitated by the Collective Security Treaty Organization providing Tajikistan with significant quantities of arms and ammunitions. At the beginning of 2020, Dushanbe received \$9000,000 worth of arms and military equipment. Additionally, the Russian Federation made a commitment to invest about USD 200 million into modernization of the Tajik Army by 2025.²⁰⁰

Tajikistan never engaged in significant and systemic changes of the Armed Forces. The duration of military service, conscription, conditions of the service and logistics have all basically remained unchanged. The issues of corruption, bullying and hazing, which were inherited from the former Soviet Union Army, remain unresolved.

Reforming the Prosecutor’s General Office: The current Prosecution Development Strategy is vague. In fact, the entire reform process has been reduced to further broadening the powers and functions of the Prosecution. For example, the Prosecution’s authority was expanded with the addition of responsibility for combatting terror-

ism and extremism; coordination of security, defence and law enforcement agencies; and the right to participate in court hearings and appeal against judgements.

In recent years the upgrading of the Border Control Forces included receiving significant military aid and extra funding from partners and international organizations. For example, in 2019, the Russian Federation sent Tajikistan US\$122 million worth of drones, MI-24 and MI-8 helicopters for patrolling the border, and ground vehicles. At the same time, the United States allocated US\$14 million to the Tajik Border Control Service.

The European Union also provides Tajikistan with significant support in the modernization of the security sector, primarily in the framework of BOMCA – Border Management Program in Central Asia. For example, the implementation of this programme resulted in a training centre for the Border Control Service; establishment of border crossing checkpoints; building of a training service for the canine unit; and regional and national trainings being conducted for personnel of the security, defence and law enforcement agencies.²⁰¹

The reform of the General Authority for Sentence Enforcement (GASE, in other words, the penitentiary system) was announced, but not carried out. It now appears to refer to the partial modernization of some prisons and, in order to prevent the jihadisation of Tajik prisons, there are plans to separate inmates sentenced for acts of terror and religious extremism from other inmates. Despite the fact that both Tajik and international human rights organizations have had the majority of their cases against the GASE upheld, a systematic process of reform has not been undertaken. In spite of numerous cases of human rights violations in the GASE system, representatives of Red Cross and other human rights advocacy organizations are not allowed to enter prisons.

The SCNS is one of the most conservative structures among the security, defence and law enforcement agencies. It remains largely untouched by the various reforms. There is limited information in the public domain on the SCNS' operations and any reforms to its structure are not subject to public discussions. Although experts discuss modernization of the SCNS units and integration of new methods, tools and approaches into its operations, there is no understanding as to how these changes have actually impacted on the organisation.

Reforms of the security, defence and law enforcement ministries and agencies have been limited to symbolic and non-systemic changes. In the past decades, the practices and work of security and defence agencies have not changed. It would be more accurate to speak about modernization of the security system, building the capacity of the personnel, along with broadening their mandate and powers.

3. Transgressions by Security Forces

²⁰¹ Солиев Р.А. «Сотрудничество между республикой Таджикистан и Европейским Союзом в сфере безопасности», Ученые записки АН РТ. Доступно по адресу: <https://cyberleninka.ru/article/n/sotrudnichestvo-mezhdu-respublikoy-tadzhikistan-i-evropeyskim-soyuzom-v-sfere-bezopasnosti/viewer>.

Tajikistan is continuously criticized by the international community and human rights organizations for breaching human rights and fundamental freedoms, and failing to control its security agencies.

As a result, organisations such as Freedom House, World Press Freedom Index, Reporters without Borders are highly critical of the situation in Tajikistan.²⁰² Common examples of human rights violations by the security agencies are suppression of the freedom of speech, expression and academic freedom. There are also restrictions on access to information with the state blocking access to some internet messengers. There have been cases of failure to meet the statutory limits for maximum periods of detention. During the EU-Tajikistan dialogue that took place in November 2019, the representatives of the EU stated that “human rights space in Tajikistan is narrowing down”.²⁰³

Over the past ten years, the People’s Democratic Party has dominated Parliament and therefore, a de facto one-party system has been established.

From 2018 to 2019, Tajikistan was rocked by a number of prison riots and upheavals. In November 2018, there was a riot in Khujand city prison. Then a riot in Vahdat city prison took place during June 2019, which resulted in dozens of fatal casualties among the inmates and prison staff. During this period, 14 inmates died of alleged food poisoning. These tragic events once again drew the attention of human rights activists to the situation in the Tajik prison system, procedures and methods of the GASE management. In the third progress report on Tajikistan in June 2018, the UN Committee against Torture expressed concern regarding the use of torture in prisons and detention centres, and resulting deaths in prisons.²⁰⁴

In response to critical statements of international organizations and human rights activists, in 2019 Dushanbe upgraded punishment for the use of torture. The Ministry of Justice drafted amendments to the Criminal Code, whereby those guilty of torture would face 5 to 8 years in prison. Those guilty of repeatedly using torture would receive 12 years of imprisonment.²⁰⁵

In trials, it has been established that there have been cases where the rights of inmates were violated. There was a partial response to these issues. For example, in 2019 a former Speaker of the Parliament, Makhmadsaid Ubaidullaev, urged judges to be fair and honest when delivering verdicts. Ubaidullaev said, “those who think they are wrongfully convicted will always hold a grudge against their judge. They will also hold a grudge against the Parliament as the MPs are to approve the appointment of judges. Today none of us can say that we act 100% according to social demands.”²⁰⁶

²⁰² Freedom of the World 2019, <https://freedomhouse.org/report/freedom-world/2019/tajikistan>.

Мумин Ахмади, «Репортеры без границ»: В Таджикистане ситуация со свободой слова хуже, чем в Узбекистане, апрель 18, 2019. Доступно по адресу: <https://rus.ozodi.org/a/29889466.html>.

CDL-AD(2014)017-e «Opinion on the Draft Constitutional Law on the Constitutional Court of Tajikistan, adopted by the Venice Commission at its 99th Plenary Session» (Venice, 13-14 June 2014), [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)017-e#](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)017-e#).

²⁰³ Таджикистан и ЕС обсудили права человека, Радио «Озоди» (Liberty), 2019. Доступно по адресу: <https://rus.ozodi.org/a/30274349.html>.

²⁰⁴ «Комитет ООН призвал Таджикистан расследовать факты пыток осужденных активистов ПИВТ», ИА Фергана, 2018. Доступно по адресу: <https://www.fergananews.com/news/30238>.

²⁰⁵ Ibid.

²⁰⁶ Убайдуллоев. 2017. Справедливому судье всегда скажут “спасибо”. Доступно по адресу: <https://rus.ozodi>.

Human rights concerns have been raised about the Army and the treatment of its personnel. These are specific type of violations — army hazing, corruption and extortion committed by the induction centre personnel, senior soldiers and officers. Human rights activists point out that in recent years there has been a decrease in the bullying of young soldiers and improvement in their living conditions, but these remain major problems. For instance, from 2014 to 2017, 62 Army personnel were subjected to battery and cruel treatment. On top of that, 12 incidents resulted in the death of soldiers. As a consequence, 35 persons were charged, 22 soldiers were imprisoned for periods covering 5 to 18 years. Thirteen officers were known to be convicted for sentences of 1.5 to 4 years in prison.²⁰⁷

Corruption and extortion in the law enforcement system: a common practice of corruption and extortion accounts for a fair share of offences committed by the law enforcement agencies. Social media regularly post information on cases of extortion on the part of the police, tax services and security service.

The pandemic and law enforcement agencies: the above-mentioned faults of the Tajik security, defence and law enforcement agencies have become fully and clearly visible during the current social and economic crisis caused by the pandemic of the coronavirus. From the very beginning, the Tajik leadership chose the strategy of concealing the data on the pandemic and spread of coronavirus in the country. Even after the government recognized the outbreak of the coronavirus in the country, the authorities still conceal the figures and data on the actual scale of the pandemic.

This strategy causes ever-growing criticism, social discontent and tensions both in civil society and general population.

4. Security Sector Accountability and Control

In general, Tajik legislation declares that security, defence and law enforcement agencies are accountable to the legislative power. Meanwhile, the current legislation does not clearly determine the mechanism, procedure and powers of the Parliament to perform supervision over the security, defence and law enforcement agencies. The Tajik legislation does not clearly stipulate the principle of legislative supremacy in the security sphere. The president of the country and some agencies of the executive power play a vital role in this area.²⁰⁸ According to the Constitution, Tajikistan has a presidential system. The president is the key figure of the administrative structure and vested with plenary powers in the security sector. The president himself appoints the heads of security, defence and law enforcement agencies, while the Parliament has to confirm these decisions.

Apart from that, the leading role of the current president was confirmed at the nationwide referendum in 2016; according to its results, Emomali Rahmon became the President for Life (peshvoi millat). According to this status, the President as the head

org/a/28931103.html.

²⁰⁷ Молодые таджики боятся идти служить в армию из-за облав и дедовщины. Доступно по адресу: <https://cabar.asia/ru/molodye-tadjiki-boyatsya-idti-sluzhit-v-armiyu-iz-za-oblav-i-dedovshiny/>.

²⁰⁸ Миндия Вашакмадзе. Нормативно-правовая база сектора безопасности Республики Таджикистан, DCAF, 2011.

of the executive power is vested with exceptional powers in the area of national security.

According to the law, the Parliament of Tajikistan has a right to demand hearings and reports of the leaders of security, defence and law enforcement agencies. At the same time, the Parliament has not yet developed a clear procedure and mechanism for hearings and reports from security, defence and law enforcement agencies. The evidence shows that the MPs rarely use their right to summon the heads of the security, defence and law enforcement agencies for extraordinary hearings. For instance, in 2018-2019, the members of Tajik Parliament rarely (at least, based on the open data) demanded reports on Tajik prison riots or multiple cases of abuses of power from the leaders of security, defence and law enforcement agencies.²⁰⁹

Tajik MPs cannot use the budget to influence the security, defence and law enforcement ministries the way it is commonly practised by many other countries. The executive branch submits a draft budget for the Parliament to approve, and the latter practically never objects against the submitted draft.

It is also noteworthy that the executive branch has full control over the Parliament due to unambiguous prevalence of the ruling People's Democratic Party, which has 51 out of 64 seats in the Lower House (Madzhlisi Namoiandagon, the House of Representatives). The current convocation of the Parliament has no opposition parties, which means it is de facto a one-party system.

Therefore, in the current situation with the presidential system and one-party Parliament, the tools designed for the MPs to exercise control over the security, defence and law enforcement agencies cannot be effectively used.

5. The Role of Civil Society

Starting from 2010, the Tajik NGO sector has been going through a prolonged and severe crisis. The number of registered NGOs has not materially decreased but the vast majority of these NGOs exist only on paper. Experts say that the decline in development of the civil sector is rooted in a set of both objective and subjective factors. Among them is the financial crisis resulting in lower access to funding and grants, enhanced control by the inspecting bodies, etc.

Additionally, in recent years, the number of independent media has drastically decreased, and the work conditions for journalists have deteriorated. In particular, the conditions for investigative journalism, field investigations, public polling, collecting statistical data, etc. have become significantly harder.

All these factors negatively affect the opportunities of the Tajik civil society to monitor the work of security, defence and law enforcement agencies.

Nonetheless 10-15 human rights and gender organizations still work: they deal with the violations on the part of the law enforcement agencies and monitor human rights violations.

²⁰⁹ Бунт в колонии: Главный вопрос – почему власти не пытались вести переговоры? 2018. Доступно по адресу: <https://news.tj/ru/news/tajikistan/security/20181109/bunt-v-kolonii-glavnii-vopros-pochemu-vlasti-ne-pitalis-vesti-peregovori>.

Such local human rights organization as Nota Bene, Bureau for Human Rights and the Tajikistan Coalition against Tortures are playing a significant role. As of the end of 2018, the Coalition had many partners including 12 CSOs and 12 individuals. The organization is supported by the European Union, the Tajikistan branch of the Open Society Institute, OSCE Program Office in Tajikistan, the UN Voluntary Fund for Victims of Torture and a number of other funds.

These organizations can exist and work due to continuous support and funding by international organizations. Without it, effective local monitoring of the human right and democratization commitments undertaken by the state would not have been possible. On the other hand, this group of NGOs has established working relations with governmental bodies and structures, which need them in order to compile high-quality reports for the international community.

Thus, now this small group of professional and well-trained NGOs bears the burden of monitoring the security sector. On the other hand, in recent years the role and influence of online resources and social media, independent Internet bloggers, many of whom deal directly with the issues of control over law enforcement, has grown significantly.

As a consequence, public discourse on the issues of law enforcement takes place on two levels:

First, there are some ongoing discussions in the format of working groups and expert groups of various projects being implemented in the framework of security sector reforms. For instance, such discussions and dialogues on Mol reform are regularly organized with the support of the OSCE or as part of the above-mentioned Safeworld project.

Second, there is a broad public discourse that is gradually developing on digital media, including social media. In the recent weeks, this discourse has become particularly intense due to the aggravating pandemic-driven crisis. A fair share of social media discussions are about the role the law enforcement agencies played in concealing the truth about the spread of the pandemic in the country.

Conclusions and Recommendations for the International Community

In view of the above, a number of conclusions and recommendations on the most relevant aspects of the work of the law enforcement agencies and opportunities for potential impact on the situation could be made:

First, it is necessary to admit that the security sector reforms in Tajikistan have not been completed. Moreover, the philosophy of the reforms to a large extent incorporates the government's vision, not the vision of the international community and stakeholders from among international organizations. In other words, the entire reform has de facto been limited to modernization of the law enforcement agencies, organizing trainings, workshops and maintaining a dialogue in the working groups.

Second, under these circumstances, the international community has to be more consistent in applying the conditionality principle while providing their official partners, Tajik agencies, with grants and loans. This means, among other things, that when Tajik

partners receive grants from international donors, they cannot confine themselves to institutional and technical capacity building but have to meet the international commitments they have made.

Third, two key problem areas can currently be identified:

1. Penitentiary system: the current situation in Tajik prisons looks particularly alarming — the upheavals of the previous two years demonstrated that the situation is inconsistent with the international standards. In this regard, the international partners have to make efforts in order to persuade the Tajik government to allow monitoring of the penitentiary facilities of the country;
2. Torture as a common practice of the Tajik law enforcement is another problem area. Despite efforts of the international community and local human rights activists, the MoI, SCNS, and prosecution still use torture in their work.²¹⁰

Fourth, in the future, it is necessary to focus efforts on expanding the network of human rights and gender organizations, supporting the Coalition against Tortures, Nota Bene, Bureau for Human Rights and other local partner organizations, including those working at the regional and district level. In the situation where the government effectively simulates reform implementation, the main focus should be placed on establishing an effective system of public monitoring and control over security, defence and law enforcement agencies. Such a system of public monitoring would need to comprise not only professional NGOs, but also independent private media, Internet channels and groups of human rights activists and bloggers. Within the next few years, public control over Tajik government will gradually shift to online media and social media, which are not controlled by the government.

²¹⁰ See: TAJIKISTAN 2019, Amnesty International, <https://www.amnesty.org/en/countries/europe-and-central-asia/tajikistan/report-tajikistan/>.

Security Sector Review of Turkmenistan

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Introduction

In early 2020, reports emerged that several high-level Turkmen security sector officials had been removed from office, suggesting that changes to Turkmenistan's security sector might be underway. In February 2020, the president of Turkmenistan, Gurbanguly Berdymukhamedov, dismissed the Minister of National Security and Secretary of the State Security Council, Yaylym Berdiev, less than a month after he was publicly rebuked for perceived shortcomings in his performance. A month before, the Minister of Defence Begench Gundogdyev was given a similar rebuke for "improperly carrying out his service duties", and received a "... final warning".²¹¹ Prior to that, in December 2019, the former minister of internal affairs, Isgender Mulikov, appeared in handcuffs on national TV, accused of corruption and embezzlement.²¹² Authorities also arrested the former head of the State Migration Service on similar charges.²¹³

These changes have shaken the security elite of Turkmenistan and raise the question as to whether they are part of a broader attempt to reform Turkmenistan's security sector.

The security system of Turkmenistan is formally managed through the State Security Council, which, in accordance with Article 71 of the Constitution of Turkmenistan, is led by the president, who also appoints and dismisses its members. Turkmenistan has a complex array of agencies responsible for the management and provision of security, including the Ministry of Defence, Ministry of Internal Affairs and law enforcement agencies, Ministry of National Security, Security Service of the President, State Border Guard Service, State Migration Service and State Customs Service. As the head of state and Supreme Commander of the Armed Forces of Turkmenistan, President Berdymukhamedov exerts tight control over these bodies.²¹⁴ As the ultimate authority responsible for appointing ministers, justice officials, commanders of the armed forces, and approving national military doctrines, President Berdymukhamedov's authority over national security and defence structures extends to all aspects of security provision, management and oversight.²¹⁵ In accordance with Article 68 of the Constitution of Turkmenistan, President Berdymukhamedov acts as a final guarantor of state sovereignty and Turkmenistan's status of permanent neutrality. Due to the nature of Turkmenistan's presidential system, security sector oversight powers are therefore primarily exercised by the president, and to a lesser extent, by bodies within the legislative and judicial branches.

This study seeks to map the main security actors in Turkmenistan and assess the process of security sector reforms since the independence of Turkmenistan in 1991. This topic has not merited any sustained academic attention until now. Turkmenistan's contemporary security architecture is based on its policy of permanent neutrality, its geopolitical situation, and its dependence on export revenues from natu-

ral gas.²¹⁶ However, the intertribal relations in Turkmenistan add some complexity to understanding the security dilemma in the country. As recognized by a UN General Assembly resolution passed in December 1995, Turkmenistan's policy of permanent neutrality has dissuaded it from pursuing membership of regional military structures, such as the Commonwealth of Independent States, the Shanghai Cooperation Organisation, and the Collective Security and Treaty Organization.

The Turkic nation finds itself sandwiched between powerful neighbours, and thus pursues an independent and isolationist defence and security policy. Turkmenistan's complexity of intertribal coexistence has conditioned relations between state authorities and citizens. This has limited the space for civil society to initiate debate on security sector reform (SSR), and thus for the effective monitoring of Turkmenistan's domestic security record. Together, these factors combine to make research into the Turkmen security sector challenging, and go some way to explaining the lack of comprehensive studies conducted in this area.

Notwithstanding these challenges, some authors have explored the Turkmen security sector, and generally posit that it retains many elements of its Soviet past, such as militarized law enforcement apparatuses, limited oversight mechanisms, and weak civil society.²¹⁷ In 2010, Michael Denison analysed the progress of security sector reform in Turkmenistan, noting that "[Turkmenistan's] strategic posture of self-imposed isolation ... has had significant ramifications for the shape and content of the [Turkmen] domestic security sector".²¹⁸ In his later study, he concluded that Turkmenistan's security system generally abstains from engagement with external actors.²¹⁹ A short overview of national security bodies can be found in Vilmer's 2010 study, which also addressed defence budgets and military modernization processes.²²⁰ Murad Esenov has analysed the obstacles for effective civil control over the Turkmen security system, including weak public oversight of law enforcement bodies, and the limited role of civil society organizations.²²¹ Civil society has also been discussed by Yuri Fedorov, who analysed its place within the broader political landscape of Turkmenistan.²²² In the context of border protection and security, Vladimir Kudinov has provided a valuable overview of the powers of the president of Turkmenistan, and of the legislative and executive branches of government.²²³ David Lewis has analysed the process of police reform in Central Asia, including Turkmenistan.²²⁴ The role of legislative oversight has

²¹⁶ The Centre of European Security Studies, 2010. Security Sector Reform in Central Asia: Exploring Needs and Possibilities, p.48, Hartog, Merijn (ed.). Available from: https://www.files.ethz.ch/isn/119141/SSR_full-text.pdf.

²¹⁷ Burghart, D., Sabonis-Helf, T. (eds.), 2018. Central Asia in the Era of Sovereignty: The Return of Tamerlane? Lexington Books, p.380.

²¹⁸ Denison, M., 2010. Security Sector Reform in Central Asia: Exploring Needs and Possibilities, p.49.

²¹⁹ Ibid.

²²⁰ Vilmer, J-B., 2010. Turkmenistan. CHRIS.

²²¹ Есенов, М., 2004. Роль гражданских лиц в силовых структурах Туркменистана. Гражданский контроль национальной политики безопасности: Опыт стран СНГ. Сборник, pp.284–296.

²²² Фёдоров Ю., 2009. Туркмения: время перемен? Индекс Безопасности, № 34, Том 15.

²²³ Кудинов В., 2016. Особенности конституционно-правового регулирования полномочий главы государства, органов законодательной и исполнительной власти в республике Туркменистан в сфере защиты и охраны государственной границы. Южный университет (ИУБиП).

²²⁴ Lewis, D., 2011. Reassessing the Role of OSCE Police Assistance Programming in Central Asia. Occasional Paper Series, No. 4. Available from: <https://www.opensocietyfoundations.org/uploads/ffa4e94c-6950-412d-99ef-29097a423da4/OPS-No-4-20110411.pdf>.

been addressed by Grazvydas Jasutis and Richard Steyne, who have explored in detail the role of the Mejlis (parliament) in overseeing the Turkmen security sector.²²⁵

In addition, some authors have addressed the Turkmen security sector through broader analyses of Turkmenistan's political landscape. These include N. Borisov, who has provided a detailed analysis of its political system, defining it as a unique system of governance based on a one-party presidential system.²²⁶ Svetlana Dzardanova has researched the first 10 years of President Berdymukhamedov's tenure, highlighting his role in driving state transformation.²²⁷ Peyrouse has compared the political reform process initiated and carried out by Niyazov and Berdymukhamedov, and concluded that the latter implemented only modest reforms.²²⁸ The transfer of power from Niyazov to Berdymukhamedov, and the resulting constitutional reform of 2008, has been researched by Y. Fiodorov, who echoed Peyrouse's view regarding the limited scope of Berdymukhamedov's reforms.²²⁹ Shoemaker has analysed Turkmenistan in the context of its relations with members of the Commonwealth of Independent States, concluding that Berdymukhamedov reversed some of the isolationist policies of his predecessor.²³⁰ The political regime of Turkmenistan has also been researched more generally by Schensnovitch, Polese, Horák, Kunysz, Radchenko, and Kadyrov.²³¹ Turkmenistan's policy of neutrality and its security concerns have been researched by Giulnara Djamieva, Merzekhanov, and Tiulpakov.²³² Andrei Kazantsev has explored the contemporary security challenges in Turkmenistan, addressing factors which might drive state fragility, including intertribal conflict and "Afghanization".²³³ Other scholars have analysed Turkmen-Russian relations, with some concluding that its strict policy of neutrality and consequential pursuance of an isolationist defence and security posture has limited its reliance on Russia for military and economic aid and support.²³⁴ Robert Timm, who briefly addressed the military capabilities of Turkmenistan's armed forces, contends that the limited procurement of arms from Russia reflects Turkmeni-

²²⁵ Jasutis G., Steyne R., 2020. Parliamentary Oversight of the Security Sector: Turkmenistan, in *Parliamentary Oversight of the Security Sector: Case Studies from Central Asia*. Available from: <https://dcaf.ch/sites/default/files/publications/documents/DCAF%20Parliamentary%20Oversight%20jan%202020%20web.pdf>.

²²⁶ Борисов Н., 2018. Президентство на постсоветском пространстве: процессы генезиса и трансформаций. РГГУ.

²²⁷ Дзарданова С., Туркменистан: анализ реформ Гурбангулы Бердымухамедова. Available from: <https://cabar.asia/svetlana-dzardanova-turkmenistan-analiz-reform-gurbanguly-berdymuhamedova/?pdf=1902>.

²²⁸ Peyrouse, S., 2012. *Turkmenistan: Strategies of Power, Dilemmas of Development*. Routledge.

²²⁹ Фёдоров Ю., 2009. Туркмения: время перемен?

²³⁰ Shoemaker, M., 2012. *Russia & The Commonwealth of Independent States*. The World Today Series.

²³¹ Horák S., Polese A., 2015. A tale of two presidents: personality cult and symbolic nation-building in Turkmenistan, in *Nationalities Papers*, 43:3, pp.457-478;

Kunysz N., 2012. From sultanism to neopatrimonialism? Regionalism within Turkmenistan. *Central Asian Survey*, 31:1, pp.1-16;

Кадыров С., 2003. "Нация" племен. Этнические истоки, трансформация и перспективы государственности в Туркменистане. Центр цивилизационных и региональных исследований ИА РАН;

Radchenko S., 2017. Turkmenistan: Grasping for Legitimacy. *Journal of Democracy*, Volume 28, Issue 3, pp.168-172.

Сченснович В., Туркменистан: вчера, сегодня, завтра.

²³² Djamieva G., 2018. Dissertations for history PhD candidacy, Dushanbe.

Мирзеханов В., Тулпаков М., Доктрина позитивного нейтралитета и внешнеполитические приоритеты постсоветской Туркмении.

²³³ 2017. Evolution of Post-Soviet Space: Past, Present, And Future. [online] Available from: <https://russiancouncil.ru/upload/iblock/5f5/evolutionofpostsovietspace.pdf> [Accessed 2020].

²³⁴ Pannier, B., 2019. Is Turkmenistan being pulled into Russia's orbit? [online] Available from: <https://www.rferl.org/a/iqshloq-ovozi-turkmenistan-pulled-into-russia-s-orbit/29713898.html> [Accessed 2020].

stan's attempt to remain independent, and thus distribute its procurement of weapons among regional powers.²³⁵

This study is composed of four parts. The first maps the functions and mandates of Turkmenistan's statutory security providers. The second identifies and reviews the modest reforms undertaken in the security sector since independence, focusing on the intelligence, military and law enforcement sectors. This is followed by a comprehensive review of the oversight mechanisms as set out in the constitution and laws of Turkmenistan, and then by a brief examination of crimes carried out by security actors.

The study concludes that Turkmenistan has made some progress in reforming its security sector, but that much scope exists for national authorities to improve the provision, management and oversight of security. At the strategic level, there remains a lack of over-arching documentation regarding the direction and objectives of such reform processes, as well as the role of the Mejlis which needs to be clarified. At the sectorial level, Turkmen authorities have stated their commitment to undertaking reforms in the military, police and intelligence sectors. However, more efforts should be made to reinforce the practical application of rule of law and respect for human rights, as well as the inculcation of integrity and ethical behaviour across the security sector.

The current study relies on primary and secondary data. The authors interviewed Turkmen officials, international security experts and academics, representatives of the Turkmen diaspora and international organizations, as well as diplomats. These datasets were reinforced by an extensive review of open-source secondary data, ensuring the study was as comprehensive as possible.

Notwithstanding the above, the challenges of conducting research in the context of Turkmenistan meant that the authors were unable to obtain access to all legal acts and security strategies, policies, and reform concepts. However, the use of primary data allowed the authors to address the security sector in a more comprehensive manner than has hitherto been possible, and aims to provide a framework for further analysis.

In contrast to broader mapping studies, however, this study does not address the role of non-state security actors or civil society in providing and overseeing the security sector. The exclusion of these actors reflects their relative exclusion from the Turkmen state: to the authors' knowledge, no private security actors openly operate on Turkmen soil, and Turkmen civil society is not yet fully capacitated to play a meaningful role in security oversight.

1. Statutory State Security Providers: Functions and Mandates

Turkmenistan's security and defence sector is regulated in accordance with the Constitution of Turkmenistan, the law 'On Organs of National Security' (1998), and the Military Doctrine of Independent, Permanently Neutral Turkmenistan (2016), the latter

²³⁵ Burghart, D., Sabonis-Helf, T., 2018. *Central Asia in the Era of Sovereignty: The Return of Tamerlane?* Lexington Books, p.380.

of which develops provisions contained with the National Security Concept of Turkmenistan, and the Declaration On the Foreign Policy of Turkmenistan in the 21st Century, Based on Permanent Neutrality, the Principles of Peacefulness, Neighbourhood and Democracy.²³⁶ Echoing Turkmenistan's founding constitution, the 2016 Military Doctrine emphasizes Turkmenistan's neutrality, defensive security posture, and commitment to strengthening relationships with neighbouring states.²³⁷

In accordance with DCAF's typology of the security sector, Turkmenistan's statutory state security providers will be grouped into the following categories: 1) Armed forces and supporting services; 2) Police and specialized law enforcement agencies; 3) Presidential guards and close protection forces; 4) Intelligence and secret services; and 5) Border and customs services.

1.1. Armed forces and supporting services

The Law of Turkmenistan No. 134-IV of September 25, 2010, on Conscription and Military Service (last amended on 14 March 2020),²³⁸ defines the Armed Forces of Turkmenistan as consisting of "bodies of military management, military units, military bodies and companies and military educational institutions". In addition, it defines "other bodies", including the State Border Guard Service of Turkmenistan, the Internal Troops of the Ministry of Internal Affairs, and "military bodies", including the Presidential Security Service, bodies of the Ministry of National Security, the State Migration Service, and State Customs Service, as military organs.²³⁹ The law also obliges each male citizen of Turkmenistan, between the ages of 18 and 27 years, to undertake mandatory conscription with the Armed Forces of Turkmenistan for a period of two years. Women are not subject to such an obligation but may enter military service voluntarily.²⁴⁰

Turkmenistan's Armed Forces are dominated by the 33,000-strong Turkmen Ground Forces,²⁴¹ organized into five Military Districts, with the primary army combat power divided into an Armoured Regiment, four Motor Rifle Brigades, a Special Forces Regiment, with supporting Artillery and Air Defence Brigades.²⁴² Largely formed of conscripted personnel, together they are charged with protecting "state sovereignty and security" in accordance with Article 20 of the Constitution of Turkmenistan.²⁴³ Whilst the state budget allocated to the Ground Forces is not publicly announced, estimates of the total defence budget range from \$200 million (in 2019) to \$719 million

²³⁶ 2016 Military Doctrine of Turkmenistan [document classified]. *гранов военного управления, войсковых частей, соединений, военных органов и предприятий и военных учебных заведений.*

²³⁷ Turkmenistan.gov.tm. 2016. Заседание Государственного Совета Безопасности Туркменистана. [online] Available from: <http://www.turkmenistan.gov.tm/?id=10501> [Accessed 2020].

²³⁸ Deletion of words such as "the State Service of Turkmenistan to Combat Economic Crimes", "management", "heads of", more can be found here: http://base.spininform.ru/show_doc.fwx?rgn=32424.

²³⁹ The Constitution of Turkmenistan. 2010. The law 'About conscription and military service'. Article 1. Available from: <https://cis-legislation.com/document.fwx?rgn=32424> [Accessed 2020].

²⁴⁰ No public figures on the percentage of women in the Turkmen Armed Forces are available. For more information on gender-based conscription practices in Turkmenistan, see: <https://www.osce.org/odihr/women-armed-forces-baseline-study?download=true> p.6.

²⁴¹ IISS, 2019. Chapter 5: Russia and Eurasia. *The Military Balance*, p.185.

²⁴² Burghart, D., Sabonis-Helf, T., 2018. *Central Asia in the Era of Sovereignty: The Return of Tamerlane?* Lexington Books, p.380.

²⁴³ The Constitution of Turkmenistan. 2016. Available from: https://www.legislationline.org/download/id/6502/file/Turkmenistan_Constitution_am2016_eng.pdf [Accessed 2020].

(in 2014).²⁴⁴ Owing to growing instability in northern Afghanistan, reports suggest that as of 2016, up to 70% of Turkmen Ground Forces were stationed along the 744-mile border with Afghanistan.²⁴⁵ Other sources report that large numbers of troops have also been engaged in activities related to traffic control, as well as being deployed in support of economic and infrastructure activities.²⁴⁶

In recent years, President Berdymukhamedov has made military reform a central aspect of his policy platform,²⁴⁷ culminating in the adoption of the 2016 Military Doctrine. However, sources suggest that the focus of this reform has been rearmament, rather than restructure.²⁴⁸ To this end, and without its own military-industrial complex, and as a measure of Turkmenistan's effort to remain independent, it has attempted to distribute weapons procurement among regional powers, primarily, Turkey, China, Belarus, Bulgaria, the Czech Republic, Slovakia, Romania, and Russia.²⁴⁹ These include the purchase in 2009 and 2011 of 40 T-90 tanks from Russia, as well as a similar number of artillery and air defence systems.²⁵⁰ Turkmen authorities have also reportedly purchased six Smerch multiple launch rocket systems, eight infantry fighting vehicles and more than 1,000 KamAZ trucks in the past decade, through the Russian state-owned arms manufacture Rosoboronexport.²⁵¹ In addition, in 2016, Turkmenistan ordered an unspecified number of Turkish-made all-purpose armoured personnel carriers and mine-resistant ambush protected vehicles.²⁵² Since 2015, Turkmenistan has increasingly relied on China for the procurement of air defence systems, including the HQ-7, HQ-9 and HQ-11, and other advanced surveillance and radio equipment.²⁵³ Combined, this currently gives the Turkmen Ground Forces an estimated strength of 1,940 infantry fighting vehicles, 712 tanks, 338 self-propelled and towed artillery

²⁴⁴ Khrolenko, A., 2019. Turkmenistan among the three most influential military powers in the region. Available from: <https://uz.sputniknews.ru/columnists/20190815/12241329/Turkmenistan--v-troyke-regionalnykh-liderov-voennoy-moschi-.html> [Accessed 2020];

IISS, *The Military Balance 2016*, pp.185–207, estimates the 2014 Turkmen defence budget as \$719 million. Although these numbers are outdated, 2014 is the last year the IISS published budget numbers for all five Central Asian Republics. Other sources estimate the defence budget as substantially lower, at \$200 million: Global Security. 2016. Turkmenistan Military Spending. [online] Available from: <https://www.globalsecurity.org/military/world/centralasia/turkmen-budget.htm> [Accessed 2020].

²⁴⁵ Risk Advisory. 2020. Turkmenistan | Moscow courts Ashgabat for security support. [online] Available from: <https://www.riskadvisory.com/news/turkmenistan-moscow-courts-ashgabat-for-security-support/> [Accessed 2020].

²⁴⁶ Jane's Sentinel Security Assessment. 2016. Russia and the CIS: Turkmenistan, pp.63-66.

²⁴⁷ Global Security. 2016. Turkmenistan Military Spending. [online] Available from: <https://www.globalsecurity.org/military/world/centralasia/turkmen-budget.htm> [Accessed 2020].

²⁴⁸ Global Security. 2016. Turkmenistan Military Spending. [online] Available from: <https://www.globalsecurity.org/military/world/centralasia/turkmen-budget.htm> [Accessed 2020].

²⁴⁹ Kucera, J., 2017. Report: Turkmenistan Is Turkey's Biggest Weapons Buyer; Eurasianet. Available from: <http://www.eurasianet.org/node/82476> [Accessed 2020]. In recent years Turkmenistan has also purchased a substantial number of weapons and related supplies from Italian manufactures, primarily for modernization of its Air Force. Please see next section on the Turkmen Air Force for more information.

²⁵⁰ Burghart, D., Sabonis-Helf, T., 2018. *Central Asia in the Era of Sovereignty: The Return of Tamilane?* Lexington Books, p.380.

²⁵¹ Newscentralasia.net. 2019. Military strength of Turkmenistan – News Central Asia. [online] Available from: <http://www.newscentralasia.net/2019/08/19/military-strength-of-turkmenistan/> [Accessed 2020].

²⁵² Defence Blog. 2016. Turkmenistan has ordered to Turkey local-made armored vehicles. [online] Available from: <https://defence-blog.com/army/turkmenistan-has-ordered-to-turkey-local-made-armored-vehicles.html> [Accessed 2020].

²⁵³ Eurasianet. 2016. Turkmenistan Shows Off New Chinese Rockets. [online] Available from: <https://eurasianet.org/turkmenistan-shows-off-new-chinese-rockets> [Accessed 2020];

Ищенко, С., 2020. Гонка Вооружений: России Предстоит Ловить Хвост Улетающего «Китайского Дракона». [online] Svpressa.ru. Available from: <https://svpressa.ru/war21/article/255527/> [Accessed 2020].

units, and 116 multiple launch rocket systems.²⁵⁴ In 2018, Turkmen authorities awarded a multi-million pounds sterling defence contract to US arms manufacture Polaris Government and Defense, for the purchase of an unspecified number of lightweight tactical vehicles for the Turkmen special operations forces.²⁵⁵

Officer training for the Turkmen Ground Forces is conducted at the Military Institute of the Ministry of Defense of Turkmenistan.²⁵⁶ Alongside the Military Academy of Turkmenistan, which accommodates 1,100 cadets from different service branches,²⁵⁷ sources suggest that officer training is also provided by several foreign countries, including Russia, the United States,²⁵⁸ Pakistan, Turkey, and Ukraine.²⁵⁹ Turkmen Ground Forces are currently directed by Chief of Staff Ismail Ismailov, subordinate to Minister of Defence Major General Begench Gundogdyev, and ultimately, to the Supreme Commander of the Armed Forces of Turkmenistan, President Gurbanguly Berdimukhamedov.

In addition to the Turkmen Ground Forces, the Turkmen Armed Forces also consist of two additional branches: the Turkmen Air Force, and the Turkmen Naval Force. The Turkmen Naval Force, numbering 3,000 personnel, boasts 72 aircraft, including 24 fighters, 20 attack and 3 transport planes. In addition, the Turkmen Air Force commands 25 helicopters, including 10 attack helicopters.²⁶⁰ In contrast to the Turkmen Ground Forces and the Turkmen Naval Force, Turkmenistan's Air Force has received little investment since independence,²⁶¹ reflecting Ashgabat's overwhelming preoccupation with securing its southern border against insurgent attacks and strengthening its internal security apparatuses. While the majority of Turkmenistan's combat-ready aircraft date to Soviet times, the authorities have, however, procured a modest number of new aircraft in recent years, primarily from Italian manufacturers, with two EH101 helicopters and five AW139 helicopters purchased in 2010 for a combined cost of €114.5 million, as well as three Selex ES Falco unmanned aerial vehicles (UAVs) for €8.7 million in 2011.²⁶² In 2017, reports also suggest that Turkmenistan procured a

²⁵⁴ Globalfirepower.com. 2020. Turkmenistan Military Strength (2020). [online] Available from: https://www.globalfirepower.com/country-military-strength-detail.asp?country_id=turkmenistan [Accessed 2020].

²⁵⁵ Armyrecognition.com. 2018. Polaris lands contract with Turkmenistan Special Forces | January 2018 Global Defense Security army news industry | Archives News Year 2018. [online] Available from: https://www.armyrecognition.com/january_2018_global_defense_security_army_news_industry/polaris_lands_contract_with_turkmenistan_special_forces.html [Accessed 2020].

²⁵⁶ Science.gov.tm. n.d. Military Institute of Ministry of Defense of Turkmenistan/Academy of Sciences of Turkmenistan. [online] Available from: http://science.gov.tm/en/organisations/military_institute/ [Accessed 21 April 2020].

²⁵⁷ Turkmenistan.ru. 2007. Military Academy of Turkmenistan inaugurated in Ashgabat | Turkmenistan.Ru. [online] Available from: <http://www.turkmenistan.ru/en/node/5310> [Accessed 2020].

²⁵⁸ U.S. Department of State. 2016. Foreign Operations Assistance: Turkmenistan. [online] Available from: <https://2009-2017.state.gov/p/eur/rls/fs/2016/261456.htm> [Accessed 2020].

²⁵⁹ Newscentralasia.net. 2019. Military Strength of Turkmenistan – News Central Asia. [online] Available from: <http://www.newscentralasia.net/2019/08/19/military-strength-of-turkmenistan/> [Accessed 2020].

²⁶⁰ Globalfirepower.com. 2020. Turkmenistan Military Strength (2020). [online] Available from: https://www.globalfirepower.com/country-military-strength-detail.asp?country_id=turkmenistan [Accessed 2020].

²⁶¹ Burghart, D., Sabonis-Helf, T., 2018. Central Asia in the Era of Sovereignty: The Return of Tamilane? Lexington Books, p.380.

²⁶² Unimondo.org. 2012. Italia: ecco le armi esportate da Berlusconi a dittatori e regimi autoritari / Notizie / Home - Unimondo. [online] Available from: <https://www.unimondo.org/Notizie/Italia-ecco-le-armi-esportate-da-Berlusconi-a-dittatori-e-regimi-autoritari-135097> [Accessed 2020];

Vignarca, F., 2010. Finmeccanica e il "fattore T" - Altreconomia. [online] Altreconomia. Available from: https://www.altreconomia.it/?url_dettaglio=2535 [Accessed 2020];

Chronicles of Turkmenistan. 2018. Turkmenistan purchases Italian military aircraft | Chronicles of Turkmenistan. [online] Available from: <https://en.hronikatm.com/2018/05/turkmenistan-purchases-italian-military-aircraft/> [Ac-

number of UAVs from China, including the WJ-600A and CH-3A.²⁶³ From 2009–2014, sales of Italian armaments to Turkmenistan totalled €370 million, making Italy the European Union’s largest exporter of military systems to Turkmenistan during that period.²⁶⁴ This period of investment in Turkmenistan’s Air Force also coincided with the adoption by President Berdymukhamedov in 2010 of a five-year military modernization plan.²⁶⁵ This investment in the Air Force and adoption of the modernization plan likely reflected concerns with the deteriorating security situation in neighbouring Afghanistan following the 2009 US troop surge, and heightened tensions with Azerbaijan in 2009 regarding ownership of three hydrocarbon oil fields in the Caspian Sea.²⁶⁶

Of the three branches of Turkmenistan’s Armed Forces, the Turkmen Naval Force, numbering 500–700 sailors, has received the most significant investment in recent years.²⁶⁷ The 2009 Presidential Decree noted that this investment would ensure that Turkmenistan had the ability “to fight effectively against smugglers, terrorists and any other forces who try to illegally use our state sea border or create an unstable situation”.²⁶⁸ The Naval Force of Turkmenistan was officially established in January 2010 by presidential decree.²⁶⁹ Prior to this, coastal protection was delegated exclusively to the Turkmen Border Guards. Some speculate that the substantial modernization of, and investment in, the Turkmen Naval Force programme signifies the ambition of Ashgabat to establish its own Navy Command.²⁷⁰

The Turkmen Naval Force boasts 16 patrol boats, including a former U.S. Coast Guard vessel.²⁷¹ In recent years, its force has also been supplemented with the purchase, in 2011, of two Project 1241.8-class missile corvettes from the Russian-owned Sredne-Nevsky Shipyard Company,²⁷² two missile boats from Turkey,²⁷³ as well as a number

cessed 2020].

²⁶³ Ищенко, С., 2020. Гонка Вооружений: России Предстоит Ловить Хвост Улетающего «Китайского Дракона». [online] Svpressa.ru. Available from: <https://svpressa.ru/war21/article/255527/> [Accessed 2020].

²⁶⁴ Rai News. 2014. L’export armato italiano ai regimi dell’ex URSS Intervista a Giorgio Beretta. [online] Available from: http://www.rainews.it/dl/rainews/articoli/L-export-armato-italiano-ai-regimi-dell-ex-URSS-Intervista-a-Giorgio-Beretta-b0a850b2-32fd-457e-b715-9f43da2b047e.html?refresh_ce [Accessed 2020].

²⁶⁵ Sources suggest that a 2015–2020 military modernization plan exists. However, it is not publicly available.

²⁶⁶ RadioFreeEurope/RadioLiberty. 2009. Flare-Up In Turkmen-Azerbaijani Dispute. Latest Nabucco Challenge. [online] Available from: https://www.rferl.org/a/FlareUp_In_TurkmenAzerbaijani_Dispute_Latest_Nabucco_Challenge/1786632.html [Accessed 2020];

In 2018, all five states bordering the Caspian Sea – Russia, Iran, Azerbaijan, Kazakhstan and Turkmenistan – signed the Convention on the Legal Status of the Caspian Sea in the Kazakh city of Aktau. The Convention established a formula to divide the resources of the Caspian Sea, and prevent other powers from establishing military bases there. See: BBC News. 2018. Caspian Sea: Five countries sign deal to end dispute. [online] Available from: <https://www.bbc.com/news/world-45162282> [Accessed 2020].

²⁶⁷ Burghart, D., Sabonis-Helf, T., 2018. *Central Asia in the Era of Sovereignty: The Return of Tamilane?* Lexington Books, p.380.

²⁶⁸ Open Source Centre. *Central Eurasia: Daily Report* (hereafter CEDR), August 31, 2009, Doc. No. CEP-950194.

²⁶⁹ Globalsecurity.org. n.d. Turkmenistan - Naval Forces. [online] Available from: <https://www.globalsecurity.org/military/world/centralasia/turkmen-navy.htm> [Accessed 2020];

Ливенцев, Д., 2010. Туркменские Военно-Морские Силы. [online] Cyberleninka.ru. Available from: <https://cyberleninka.ru/article/n/turkmenskie-voenno-morskije-sily/viewer> [Accessed 2020]; Phone interview with Turkmen expert on 11 April 2020 to discuss the subordination.

²⁷⁰ Burghart, D., Sabonis-Helf, T., 2018. *Central Asia in the Era of Sovereignty: The Return of Tamilane?* Lexington Books, p.380.

²⁷¹ International Institute of Strategic Studies. *The Military Balance*, 2013.

²⁷² Newscentralasia.net. 2019. Military Strength of Turkmenistan – News Central Asia. [online] Available from: <http://www.newscentralasia.net/2019/08/19/military-strength-of-turkmenistan/> [Accessed 2020].

²⁷³ Nichol, J., 2013. Turkmenistan: Recent Developments and U.S. Interests. [online] Fas.org. Available from: <https://fas.org/sgp/crs/row/97-1055.pdf> [Accessed 2020].

of smaller patrol boats from France.²⁷⁴ Reports suggest that Turkmenistan may now host the strongest naval force in the Caspian sea, second only to Russia.²⁷⁵

Since 2015, forces of the Turkmen Navy have been trained at the Turkmen Naval Institute, based in the coastal city of Turkmenbashi,²⁷⁶ and in 2014 the Naval Institute partnered with the Organization for Security and Co-operation in Europe (OSCE) Centre in Ashgabat to deliver training on maritime border security and port management procedures to 105 cadets.²⁷⁷

1.2. Police and specialized law enforcement agencies

Law enforcement in Turkmenistan is primarily carried out by the national police of Turkmenistan, under the direction and authority of the Ministry of Internal Affairs. The Turkmen militsiya was renamed 'police' in 1998 by a decree of former president Saparmurat Niyazov 'On the Formation of the Police of Turkmenistan'.²⁷⁸ Members of the national police of Turkmenistan are charged with maintaining public order and certain administrative tasks such as controlling the internal passport regime, issuing visas for foreign travel, and registering foreign guests.²⁷⁹ The legal basis of the national police of Turkmenistan derives principally from the Constitution of Turkmenistan, the 2011 law 'On Internal Affairs Bodies of Turkmenistan' (last amended on 14 March 2020) and, up until 2011, the 2007 law 'On the Police of Turkmenistan' (abolished in 2011). Basic, in-service and specialized training is provided by the Police Academy of Turkmenistan, established in 1993, and which consists of five faculties, focusing on law, special institutions, fire-technical skills, Internal Troops, and advanced training, respectively.²⁸⁰ From 2008 to 2016, the State Service for Protection of Safety of a Healthy Society (SSPSHS) (formerly the State Drug Control Service) was the primary agency responsible for the implementation of state policy in the sphere of drug enforcement.²⁸¹ Initially regulated in accordance with Law No. 354-IV 'On the service to protect the safety of healthy society' of 22 December 2012, the SSPSHS was tasked with the prevention of illicit sales of narcotic drugs, combating their illegal import and trafficking, establishing effective transfrontier cooperation, and implementing related international obligations of Turkmenistan.²⁸² Created by presidential decree, the SSPSHS reported directly to President Berdymukhamedov, and was independent from both the Ministry of Internal Affairs and the Ministry of National Security.²⁸³ In

²⁷⁴ Burghart, D., Sabonis-Helf, T., 2018. *Central Asia in the Era of Sovereignty: The Return of Tamilane?* Lexington Books, p.380.

²⁷⁵ Kucera, J. Turkmenistan: Ashgabat Quietly Builds Up Caspian Military Might. Eurasianet, 2012.

²⁷⁶ Newscentralasia.net. 2015. Turkmen Navy Starts Taking Shape – Berdiev Promoted To 4-Star General – News Central Asia. [online] Available from: <http://www.newscentralasia.net/2015/10/12/turkmen-navy-starts-taking-shape-berdiev-promoted-to-4-star-general/> [Accessed 2020].

²⁷⁷ Osce.org. 2014. OSCE Centre trains Turkmenistan cadets in land and maritime security. [online] Available from: <https://www.osce.org/ashgabat/124394> [Accessed 2020].

²⁷⁸ Presidential Decree 'On the Formation of the Police of Turkmenistan', 1998.

²⁷⁹ Data.mongabay.com. n.d. Turkmenistan-Internal Security Forces. [online] Available from: https://data.mongabay.com/history/turkmenistan/turkmenistan-internal_security_forces.html [Accessed 2020].

²⁸⁰ Science.gov.tm. n.d. Академия Полиции Туркменистана Имени Генерала Армии Туркменистана С.А.Ниязова. [online] Available from: http://science.gov.tm/organisations/police_academy/ [Accessed 2020].

²⁸¹ Chingin, A., Fedorova, O., 2014. Drug Situation and Drug Policy, p.21.

²⁸² The Constitution of Turkmenistan. Article 5. Law No.354-IV 'On the service to protect the safety of healthy society' of 2012.

²⁸³ Central Asia News. 2016. Turkmenistan strengthens efforts against drug trafficking. [online] Available from: https://central.asia-news.com/en_GB/articles/cnmi_ca/features/2016/10/21/feature-01 [Accessed 2020].

2016, its personnel and functions were transferred to the Ministry of Internal Affairs, and the service abolished.

The national police force of Turkmenistan is aided by the Internal Troops of Turkmenistan, a paramilitary force under the Armed Forces of Turkmenistan numbering around 25,000 personnel²⁸⁴ but managed and directed by the Ministry of Internal Affairs under the authority of the current Minister, Mammetkhan Chakiyev.²⁸⁵ Trained at the Internal Troops Facility of the Police Academy, as well as at the Institute of the Ministry of Internal Affairs, the Internal Troops were formally established in 1992 by presidential decree.²⁸⁶ In accordance with the Law No. 74-II on the Internal Troops of Turkmenistan (last amended on 8 July 2019), the tasks of the Internal Troops are to: support other law enforcement bodies of Turkmenistan in pursuance of public order; protect the life, health, rights, freedoms and legitimate interests of citizens against criminal and other illegal actions; support criminal justice bodies with respect to persons serving custodial sentences; provide supervision for people who are under treatment for alcoholism and drug addiction; protect important state facilities and objects; and participate in the implementation of emergency rule.²⁸⁷

1.3. Presidential guards and close protection forces

In accordance with Article 13 of the Law of Turkmenistan On the President of Turkmenistan, the physical protection of the president, his spouse, and family members, is vested in the Presidential Security Service.²⁸⁸ In addition, the service provides the president with special means of communication, and together with the Office of the Presidential Administration of Turkmenistan and the Ministry of National Security of Turkmenistan, housing and transportation services.²⁸⁹ Originally, under the Decree of the Supreme Council of the Turkmen Socialist Soviet Republic (SSR) 'On Ensuring the Activities of Senior Officials of The Turkmen SSR' of November 16, 1990,²⁹⁰ the protection of the president of Turkmenistan was assigned to a unit of the National Security Committee of the Turkmen SSR, the forerunner to the current Presidential Security Service. In the early 1990s, the Security Service was transformed into an independent body, reporting directly to the president under the leadership of Lieutenant Colonel Akmurad Rejepov.²⁹¹ Until 2007, experts considered the Presidential Security Service as the most powerful security apparatus in Turkmenistan.²⁹² In 2007–2010,

²⁸⁴ Marat, E., 2009. *The Military and the State in Central Asia: From Red Army to Independence*.

²⁸⁵ Turkmenistan Today. 2020. Outcomes of activity of security forces in January – March reviewed at the session of the State Security Council. [online] Available from: <http://tdh.gov.tm/news/en/articles.aspx&article21981&cat26> [Accessed 2020].

²⁸⁶ Presidential Decree 'On the Formation of the Internal Troops of Turkmenistan'.

²⁸⁷ The Constitution of Turkmenistan. 2001. Law of Turkmenistan 'About internal troops of Turkmenistan'. Article 13. [online] Available from: <https://cis-legislation.com/document.fwx?rgn=2422> [Accessed 2020].

²⁸⁸ The Constitution of Turkmenistan. 2011. Law of Turkmenistan 'About the President of Turkmenistan'. Article 13. [online] Available from: <http://www.turkmenbusiness.org/content/zakon-turkmenistana-o-prezidente-turkmenistana> [Accessed 2020].

²⁸⁹ The Constitution of Turkmenistan. 2011. Law of Turkmenistan 'About the President of Turkmenistan'. Article 12.

²⁹⁰ Decree of the Supreme Council of the Turkmen Socialist Soviet Republic 'On Ensuring the Activities of Senior Officials of The Turkmen SSR', 1990. For more information, see: 2013. Кое-Что О Президентской Охране. [online] Available from: https://pikabu.ru/story/koechto_o_prezidentskoy_okhrane_5967301 [Accessed 2020].

²⁹¹ Decree of the Supreme Council of the Turkmen Socialist Soviet Republic 'On Ensuring the Activities of Senior Officials of The Turkmen SSR', 1990. For more information, see: 2013. Кое-Что О Президентской Охране. [online] Available from: https://pikabu.ru/story/koechto_o_prezidentskoy_okhrane_5967301 [Accessed 2020].

²⁹² Phone interview with Professor Andrey Kazantsev on 5 April 2020.

sources reported that President Berdymukhamedov attempted to curtail the power of the agency, instead favouring the Turkmen Armed Forces.²⁹³

In accordance with the law 'On Operative-Search Activity' of September 23, 1994,²⁹⁴ the Presidential Security Service is also vested with powers to carry out operational-investigative activities. Currently, sources suggest that the Presidential Security Service is composed of 2,000 employees, including the Personal Guard of the President (1st division), and three special operations battalions.²⁹⁵

The National Guard of Turkmenistan, a paramilitary body made up of 700–1000 personnel,²⁹⁶ is also tasked with the protection of the President of Turkmenistan, other senior government officials, and important state facilities.²⁹⁷ Thus, despite its name, the National Guard closely resembles what military theorists would normally refer to as a 'presidential guard' or 'close protection forces'. It was established in October 1991,²⁹⁸ but little public information is available on its development since. In addition to the Presidential Security Service and National Guard, the Independent Honor Guard Battalion of the Ministry of Defence of Turkmenistan, consisting of 100 personnel, split between two infantry and one cavalry company, is also mandated to protect the presidential palace in Ashgabat.²⁹⁹

1.4. Intelligence and secret services

The Ministry of National Security (MNS), known as the Committee for National Security until 2002, is the primary intelligence-gathering agency for the government of Turkmenistan. The law on organs of national security of Turkmenistan suggests³⁰⁰ the MNS wields extraordinary powers in pursuit of its aims, which closely mirror that of the Committee for National Security. The MNS is used to provide advanced training to military and non-military personnel from across Turkmenistan's defence and security establishment.³⁰¹ In 2005, the Counter Terrorism Training Center of the MNS was opened in Ashgabat.³⁰² Currently headed by Gurbanmyrat Annaev,³⁰³ the MNS hosts regional departments in the Turkmen regions of Ahal, Balkan, Dashoguz and Lebap.

²⁹³ Phone interview with Turkmen security expert on 20 March 2020.

²⁹⁴ Law of Turkmenistan with Law on Operative-Search Activity, 1994. For more information, see: 2013. Кое-Что О Президентской Охране. [online] Available from: https://pikabu.ru/story/koechto_o_prezidentskoy_okhrane_5967301 [Accessed 2020].

²⁹⁵ Chronicles of Turkmenistan. 2013. Some facts about the Presidential security team | Chronicles of Turkmenistan. [online] Available from: <https://en.hronikatm.com/2013/06/some-facts-about-the-presidential-security-team/> [Accessed 2020].

²⁹⁶ Vassiliev, A. (ed.), 2001. Central Asia: Political and Economic Challenges in the Post-Soviet Era. Saqi Books. p.119. While this document relates to 2001, no newer publications have been found regarding this issue.

²⁹⁷ Abazov, R., 2005. Historical Dictionary of Turkmenistan. Reference Reviews, 19(7), p.18.

²⁹⁸ Smith D.L., 1998. Breaking Away from the Bear. p.30.

²⁹⁹ The Independent Honor Guard Battalion of the Ministry of Defence of Turkmenistan. Available from: <http://www.parahat.info/news/parahat-info-news-14928> [Accessed 20 April 2020].

³⁰⁰ The Law 'On Organs of National Security of Turkmenistan' (with amendments from 1997, 1998 and 2003).

³⁰¹ Turkmenportal. 2012. Институт Комитета Национальной Безопасности Туркменистана | ВУЗЫ. [online] Available from: <https://turkmenportal.com/catalog/1730> [Accessed 20 April 2020].

³⁰² Sof-mag.ru. n.d. Спецподразделения Туркменистана. [online] Available from: http://sof-mag.ru/spec_arms/turkmenistan_spec.html [Accessed 20 April 2020];

Нупо.ru. n.d. Политическая Роль Военных/Силовых Структур / Туркмения / Политический Атлас Современности. [online] Available from: <http://www.hyno.ru/tom2/1668.html> [Accessed 2020].

³⁰³ Turkmenistan Today. 2020. Outcomes of activity of security forces in January – March reviewed at the session of the State Security Council. [online] Available from: <http://tdh.gov.tm/news/en/articles.aspx&article21981&cat26> [Accessed 2020].

Further information on the reform process of the intelligence service is provided in section 2 of the study, below.

1.5. Border and customs services

The Law of Turkmenistan No. 390-IV of May 4, 2013, on the Border Troops of Turkmenistan (last amended on 10 October 2018), defines the Border Troops of Turkmenistan as “special troops intended for protection of [the] Frontier of Turkmenistan, safety and sovereignty of Turkmenistan [and] implementation of border control...”.³⁰⁴ In accordance with the above-mentioned law, the Border Troops are tasked with the protection of Turkmenistan’s land and maritime borders as well as protecting political, economic, military and other state interests, and preventing illegal entry into Turkmenistan via implementation of Turkmenistan’s boundary regime.³⁰⁵ As the primary body responsible for the protection of Turkmenistan’s maritime borders, the Turkmen Naval Force cooperates closely with the Border Troops. Currently directed by Colonel Shadurdi Durdiev, the head of the State Border Guard Service, the Border Troops consist of land, sea, and air units, as well as institutes of higher education.³⁰⁶

Originally established on 11 August 1992, by order of the former president of Turkmenistan, Saparmurat Niyazov, the State Border Service (formerly The Border Guard Command) was established to replace the Soviet-era Central Asian Border Troops District of the Committee for State Security of the Soviet Union.³⁰⁷ On the basis of the Russian-Turkmen Treaty on Joint Measures signed in July 1992,³⁰⁸ and the December 1993 Agreement on Joint Protection of the State Border of Turkmenistan, and the status of military personnel of the Border Troops of the Russian Federation in the territory of Turkmenistan,³⁰⁹ the Border Guard Command remained under joint Turkmen-Russian control until 20 December 2000, when the last members of the Russian Task Force of the Federal Border Service, left Turkmenistan.³¹⁰ During this period, about 5,000 personnel served in the Border Troops of Turkmenistan,³¹¹ including an estimated 1,000 Russian border troops,³¹² with the OG FPS performing an advisory role and educational functions.³¹³

³⁰⁴ The Constitution of Turkmenistan. 2013. Law of Turkmenistan ‘About Border troops of Turkmenistan’. Article 4. [online] Available from: <https://cis-legislation.com/document.fwx?rgn=65994> [Accessed 2020].

³⁰⁵ The Constitution of Turkmenistan. 2013. Law of Turkmenistan ‘About Border Troops of Turkmenistan’. Article 4. [online] Available from: <https://cis-legislation.com/document.fwx?rgn=65994> [Accessed 2020].

³⁰⁶ The Constitution of Turkmenistan. 2013. Law of Turkmenistan ‘About Border Troops of Turkmenistan’. Article 5. [online] Available from: <https://cis-legislation.com/document.fwx?rgn=65994> [Accessed 2020].

³⁰⁷ Turkmenistan’s Military Co-operation and Foreign Relations with Russia. p.133. [online] Available from: https://shodhganga.inflibnet.ac.in/bitstream/10603/14320/10/10_chapter%203.pdf [Accessed 2020].

³⁰⁸ Turkmenistan’s Military Co-operation and Foreign Relations with Russia. p.129. [online] Available from: https://shodhganga.inflibnet.ac.in/bitstream/10603/14320/10/10_chapter%203.pdf [Accessed 2020].

³⁰⁹ Under this agreement, Turkmenistan would pay all costs for maintaining Russian military forces on its territory, and Russia would be granted the right to maintain an air force and air defence system on Turkmen soil. For more information, see: https://shodhganga.inflibnet.ac.in/bitstream/10603/14320/10/10_chapter%203.pdf [Accessed 2020].

³¹⁰ Security Sector Reform in Central Asia: Exploring Needs and Possibilities. p.48 [online]; Web.archive.org. n.d. Государственная Пограничная Служба Туркменистана. [online] Available from: <https://web.archive.org/web/20121114025436/http://www.agentura.ru/press/about/jointprojects/greatgame/pogranturkmen/> [Accessed 2020].

³¹¹ Turkmenistan’s Military Co-operation and Foreign Relations with Russia. p.133.

³¹² Nichol, J., 2013. Turkmenistan: Recent Developments and U.S. Interests. p.14 [online] Fas.org. Available from: <https://fas.org/sgp/crs/row/97-1055.pdf> [Accessed 2020].

³¹³ Web.archive.org. n.d. Государственная Пограничная Служба Туркменистана. [online].

The exit of Russian troops coincided with the reduction in ties between Turkmenistan and the Commonwealth of Independent States (CIS). Turkmenistan had enjoyed the status of ‘founding member’, having ratified the CIS Creation Agreement in 1991, but not the subsequent charter in order to become a member of the CIS, and therefore had limited engagement with CIS initiatives. By 2001, representatives of the Turkmen Border Guards were, however, absent for the 40th meeting of the Council of Commanders of the Border Troops of the CIS countries held in Baku.³¹⁴ By 2005, Turkmenistan had downgraded its membership of the CIS to ‘associate member’, citing the need to align its membership of regional organizations with its ‘status of permanent neutrality’, which was accepted by the UN General Assembly on 12 December 1995.³¹⁵ In the years preceding this, the Turkmen Border Guards had undergone their first substantial period of reform, driven by a number of factors which necessitated a strengthening of border regime practices. These included an armed incident along the Turkmen-Uzbek border in December 1998, in which three Turkmen law enforcement officials were reportedly killed.³¹⁶ A year later, in September 1999, while attempting to arrest a group of ethnic Uzbeks, suspected to be members of a proscribed terrorist group, in the Turkmen city of Dashoguz, one detainee reportedly blew himself up, injuring many.³¹⁷ Further incidents in 2000–2001, combined with growing instability in Afghanistan, led President Niyazov to convene an extraordinary meeting of the Cabinet of Ministers on June 15, 2000, in which he demanded “to immediately put an end to the increasing violations of the state border”.³¹⁸ By the end of 2001, 11 new border posts were created along the Turkmen-Uzbek border, in the Dashoguz region, and 10 in the Lebap region, which borders Uzbekistan and Afghanistan. By the end of 2001, the Border Troops were strengthened with the addition of 500 new personnel, and three new border detachments were created.³¹⁹

Since the early 2000s, the Turkmen Border Troops have grown to an estimated 12,000-strong force,³²⁰ and now boast their own higher educational institute, the Turkmen State Border Service Institute, established in 2011 in Ashgabat, and according to reports, extensively refurbished in 2014.³²¹ In recent years, efforts have also been made to modernize certain border posts and checkpoints, including extensive renovation and expansion of border posts in the Balkan region of Turkmenistan.³²² Despite this, experts still disagree as to the effectiveness of the Turkmen Border Troops.³²³

³¹⁴ Web.archive.org. n.d. Государственная Пограничная Служба Туркменистана. [online].

³¹⁵ RadioFreeEurope/RadioLiberty. 2005. CIS: Turkmenistan Reduces Ties To ‘Associate Member’. [online] Available from: <https://www.rferl.org/a/1061002.html> [Accessed 2020].

³¹⁶ RadioFreeEurope/RadioLiberty. 2001. Turkmen Report: August 12, 2001. [online] Available from: <https://www.rferl.org/a/1347096.html> [Accessed 2020];

Web.archive.org. n.d. Государственная Пограничная Служба Туркменистана. [online].

³¹⁷ RadioFreeEurope/RadioLiberty. 2001. Turkmen Report: August 12, 2001. [online] Available from: <https://www.rferl.org/a/1347096.html> [Accessed 2020].

³¹⁸ Web.archive.org. n.d. Государственная Пограничная Служба Туркменистана. [online].

³¹⁹ Web.archive.org. n.d. Государственная Пограничная Служба Туркменистана. [online].

³²⁰ Burghart, D., Sabonis-Helf, T., 2018. *Central Asia in the Era of Sovereignty: The Return of Tamilane?* Lexington Books, p.381.

³²¹ Государственное информационное агентство Туркменистана. 2014. Президент Туркменистана Принял Участие В Открытии Комплекса Зданий Государственной Пограничной Службы И Пограничного Института. [online] Available from: <http://www.turkmenistan.gov.tm/?id=7860> [Accessed 2020].

³²² Turkmenistan Today. 2017. The President of Turkmenistan takes part in the opening of new facility of the State Border Guard Service | TDH. [online] Available from: <http://tdh.gov.tm/news/en/articles.aspx&article9592&cat26> [Accessed 2020].

³²³ Central Asia in the Era of Sovereignty p.381. versus Hays, J., 2008. *Military of Turkmenistan | Facts and Details.*

To this end, it is worth noting that in recent years the State Border Guard Service has collaborated with the international community, both through bilateral assistance programmes³²⁴ and cooperation with international and regional organizations, including through the OSCE Centre in Ashgabat and the EU-funded Border Management in Central Asia Programme (BOMCA).³²⁵ This cooperation signals the importance Turkmen authorities place on the Turkmen Border Troops for ensuring state security, and provides possible avenues to allow the international community to intensify cooperation in the area of border management, with a view to creating incentives for enhanced dialogue on broader security sector reforms.

In addition to the State Border Service and its Border Troops, the State Customs Service of Turkmenistan (SCST), in accordance with the Law of Turkmenistan No. 91-IV of 12 March 2010, on the Customs Service of Turkmenistan (last amended on 30 November 2019), is defined as the central executive agency charged with performing state policy with regard to the regulation of the customs system of Turkmenistan. The SCST ensures compliance with Turkmenistan's international obligations on customs issues, as well as conducting the fight against smuggling, administrative crimes and related other offences.³²⁶ The State Customs Service of Turkmenistan also derives its power from the Customs Code of Turkmenistan (last amended 1 April 2020), which defines the legal, economic and organizational foundations of the state regulation of customs in Turkmenistan.³²⁷

Article 3 of the law 'On the Customs Service of Turkmenistan' defines the State Customs Service of Turkmenistan as including its central office, training centre, Directorate of Economic Management, customs offices and posts in provinces, and other self-supporting organizations.³²⁸ The SCST is directed by a chairman, currently M. Hudaykuliyeu,³²⁹ who is appointed and dismissed by the president of Turkmenistan, along with the vice-chairman and chiefs of the customs offices.³³⁰ As a member of the World Customs Organization (WCO), the SCST is also mandated to ensure compliance with conventions sponsored or administered by the Customs Cooperation Coun-

[online] Factsanddetails.com. Available from: http://factsanddetails.com/central-asia/Turkmenistan/sub8_7d/entry-4833.html#chapter-1 [Accessed 2020].

³²⁴ U.S. Department of State and Department of Defense, Foreign Military Training, Fiscal Years 2012 and 2013, Joint Report to Congress, Volume 1, 2013.

³²⁵ Osce.org. 2015. OSCE trains Turkmenistan border guards in border management and threat assessment. [online] Available from: <https://www.osce.org/ashgabat/154276> [Accessed 2020];

Osce.org. 2016. Border Guards complete OSCE training course on patrolling in Turkmenistan. [online] Available from: <https://www.osce.org/ashgabat/266936> [Accessed 2020];

EEAS - European Commission. 2019. The EU helps training border guards, customs and migration officers in Central Asia on modern border control procedures and mechanisms. [online] Available from: https://eeas.europa.eu/delegations/turkmenistan/58363/eu-helps-training-border-guards-customs-and-migration-officers-central-asia-modern-border_zh-hant [Accessed 2020].

³²⁶ The Constitution of Turkmenistan. 2010. Law of Turkmenistan 'About Customs Service'. [online] Available from: <https://cis-legislation.com/document.fwx?rgn=30941> [Accessed 2020].

³²⁷ The Constitution of Turkmenistan. 2010. The Law 'On the Customs Code of Turkmenistan'. Available from: <https://customs.gov.tm/ru/laws/tamozhennyy-kodeks-turkmenistana>. For information on the amendment dated 1 April 2020, see: <https://customs.gov.tm/en/news/1284>.

³²⁸ The Constitution of Turkmenistan. 2010. Law of Turkmenistan 'About Customs Service'. [online] Available from: <https://cis-legislation.com/document.fwx?rgn=30941> [Accessed 2020], and

Customs.gov.tm. n.d. About Us – State Customs Service of Turkmenistan. [online] Available from: <https://customs.gov.tm/en/about-us/gosudarstvennaya-tamozhennaya-sluzhba-turkmenistana> [Accessed 2020].

³²⁹ Customs.gov.tm. 2020. Outcomes of activity of security forces in January – March reviewed at the session of the State Security Council. [online] Available from: <https://customs.gov.tm/en/news/1286> [Accessed 2020].

³³⁰ Law of Turkmenistan 'About Customs Service'. 2010.

cil of the WCO.³³¹ As with the State Border Guard Service, the State Customs Service is officially defined as a ‘military body’.³³²

2. Security Sector Reforms: Historical Developments and Current Trends

2.1. Intelligence sector reform

Intelligence services can make a significant contribution to national security through the provision of accurate intelligence on the range of risks and threats faced by the state. In the context of security sector reform, particularly in the post-Soviet region, intelligence agencies and services have received little attention from national or international actors, and thus frequently require substantial reform to bring them into line with best practice in security sector governance.³³³ As with other Central Asian states, this remains the case for Turkmenistan.

On 30 September 1991, the Committee for State Security (KGB) of Soviet Turkmenistan was reorganized and renamed the Committee of National Security of the Soviet Republic of Turkmenistan (CNS).³³⁴ Due to the legacy of the Soviet legal system, and limited human resources, this reorganization did not result in significant reform of the legal basis, structure and functions of the service. As with many other post-Soviet states, the law ‘On the Organs of State Security’ of the USSR served as the platform for the creation of respective national laws. This was the case for Turkmenistan, which adopted the law ‘On Organs of National Security’ of Turkmenistan on 12 April 1993, which remained remarkably similar to its predecessor.³³⁵ The legal norms of the law echoed and reflected the structure, functions and methods of the KGB. Furthermore, the heads of the reorganized CNS were former members of the Soviet KGB, meaning the CNS was unable to embrace new working practices and cultures.

By early 2001, however, some signs of change within the CNS had emerged. In January of that year, President Niyazov ordered an increase in the number of CNS personnel from 1,500 to 2,500, noting the CNS’s success in arresting and removing some 10,000 foreign citizens from the country, as well as confiscating “350,000 religious books incompatible with our faith”.³³⁶ After the dismissal and arrest of the head of the CNS, Muhamet Nazarov, on 4 March 2002, on the order of President Niyazov, the CNS underwent a radical process of reform. Prior to his dismissal and arrest, Nazarov had already been demoted to the rank of lieutenant general for alleged “shortcomings

³³¹ Wcoomd.org. 2019. Conventions sponsored or administered by the Customs Co-operation Council. [online] Available from: <http://www.wcoomd.org/en/about-us/legal-instruments/conventions.aspx> [Accessed 2020].

³³² The Constitution of Turkmenistan. 2010. Law of Turkmenistan ‘About conscription and military service’. Available from: <https://cis-legislation.com/document.fwx?rgn=32424> [Accessed 20 April 2020].

³³³ Hannah, G., O’Brien, K. A., and Rathmell, A., 2005. Intelligence and Security Legislation for Security Sector Reform. [online] Rand.org. Available from: https://www.rand.org/pubs/technical_reports/TR288.html [Accessed 2020].

³³⁴ Тумшис М., 2012. Щит и меч Советского Союза. Справочник: краткие биографии руководителей органов государственной безопасности СССР и союзных республик (декабрь 1922 – декабрь 1991). [online] Available from: <https://www.litmir.me/br/?b=578162&p=1>.

³³⁵ Редкоус В.М., 2010. Историко-правовые аспекты формирования современного административного законодательства в области обеспечения национальной безопасности (опыт России и стран — участниц СНГ). Вестник Московского университета МВД России № 3.

³³⁶ Мемохрс.org. 2008. Туркменистан: Власти Строят «Железный Занавес» По Рецептам Сталинской Диктатуры | Правозащитный Центр «Мемориал». [online] Available from: <https://memohrc.org/ru/news/turkmenistan-vlasti-stroyat-zheleznyy-zanaves-po-receptam-stalinskoy-diktatury#sdfootnote1sym> [Accessed 2020].

in the work”. Thereafter, he was dismissed from all posts, arrested and sentenced to 20 years imprisonment.

In support of the president, the then minister of internal affairs, the prosecutor general and the chairman of the supreme court referred to offences, abuse of power and the direct interference of the CNS in the state affairs of Turkmenistan.³³⁷ While it is not possible to track the legislative changes that followed the reform of the CNS, presidential statements suggested a comprehensive and somewhat modern approach to reorganizing the service. On 15 March 2002, the president invited members of parliament, ministers, heads of local administration and law enforcement agencies and announced that “the CNS would no longer possess intrusive powers to interfere in the private life of citizens and the activities of commercial enterprises”. He declared his intention to reform the entire organization, including the work of its departments and offices, and advised that he had already initiated substantial changes within its top management, dismissing 80% of its senior officials. The CNS would refocus its activities on protecting national security, while areas normally within the purview of law enforcement bodies, such as combatting theft, fraud and drug trafficking, would be transferred to the Ministry of Internal Affairs.³³⁸ These functional changes were reinforced by the appointment of a new head of the CNS, former minister of internal affairs, Poran Berdiev, who had never served in the KGB. The CNS was renamed the Ministry of National Security (MNS) to communicate the role of the service, and its new mandate.³³⁹ According to Article 11 of the newly adopted law ‘On Organs of National Security’ of Turkmenistan,³⁴⁰ the MNS would be a state body charged with the implementation of laws concerning the system of national security, and was bestowed with the power to issue normative acts, govern national security agencies and ensure the protection of national security. Article 14 privileges a vast array of competences to the service, including undertaking intelligence and counter-intelligence activities, operational search activities, and preliminary investigations; developing and implementing measures to combat organized crime, corruption and drug trafficking; preventing and suppressing civic unrest and inter-ethnic conflicts; participating in the development and implementation of measures to protect state secrets, as well as measures to ensure border and customs regimes, amongst others. Based on these powers, the MNS became a key player in domestic and external security processes. After the alleged assassination attempt against the former president Niyazov on 25 November 2002, the MNS played a critical investigative role, both at home and abroad.³⁴¹

After the election of Gurbanguly Berdimukhamedov in 2007, the MNS underwent further changes, particularly regarding appointments at senior level. However, little information exists on attempts to change the working practices and culture of the service.

³³⁷ Turkmenistan.ru. 2002. Президент Туркменистана признал неудовлетворительной работу руководства КНБ. [online] Available from: <http://www.turkmenistan.ru/ru/node/14543> [Accessed 2020].

³³⁸ Turkmenistan.ru. 2002. Сапармурат ниязов объявил о резком сокращении полномочий комитета национальной безопасности | Интернет-Газета Turkmenistan.Ru. [online] Available from: <http://www.turkmenistan.ru/ru/node/14474> [Accessed 2020].

³³⁹ RIA News, 2002. Комитет Национальной Безопасности Туркмении По Решению Президента Страны Переименован В Министерство. [online] РИА Новости. Available from: <https://ria.ru/20020911/222760.html> [Accessed 2020].

³⁴⁰ The Constitution of Turkmenistan. 1993. The Law ‘On Organs of National Security of Turkmenistan’ (№ 4, art.32, with amendments from 1997, 1998 and 2003).

³⁴¹ Phone interview with Turkmen security expert on 15 March 2020.

From 2007 to 2020, President Berdymukhamedov dismissed and appointed heads of the MNS no less than six times, most recently appointing Gurbanmyrat Annaev (in February 2020), former deputy minister of the MNS.³⁴²

While the intent to conduct internal reforms linked to functions and methods has not been publicly stated, a reorientation and expansion of its functions can be witnessed. On the occasion of National Security Service Workers' Day in 2018, the president urged the MNS to refocus its efforts on the prevention of global threats such as international terrorism, extremism and drug smuggling. He also noted the importance of enhanced inter-agency cooperation between the MNS and law enforcement bodies for ensuring national security, the well-being of the country and upholding the rule of law.

Despite attempts to bring the MNS into line with modern intelligence services through re-focusing their work on issues concerning national security, Turkmen authorities considered other reforms intended to enhance the quality of service and improve the lives and welfare of its personnel.³⁴³ In addition, the refocusing of the MNS towards global threats would also demand additional internal structural reforms. In the meantime, the MNS continues to fulfill its traditional functions inherited from the CNS. To this end, enhancing respect for human rights and civil freedoms within the MNS could be further explored. According to Article 5 of the law 'On Organs of National Security', national security agencies must conduct their activities without infringing upon the rights and freedoms of citizens. While, in line with standard practices, citizens' rights and freedoms may be restricted in the interests of national security in cases provided for by law, citizens are able to file complaints against the MNS to the national ombudsman, and appeal to higher national security agencies, the prosecutor's office or courts. The circumstances and cases in which citizens' rights and freedoms may be restricted could also be further explored by national authorities.

2.2. Defence reform

Defence reform is a far-reaching process encompassing an array of inter-related activities. These include assessing the strategic security environment in order to identify the threats, risks and challenges facing a country over the short-to-long term; reviews of the operational roles and objectives of the armed forces and civilian defence-sector institutions; restructuring relations between the defence sector and other security providers, as well as the institutions responsible for the management and oversight of the defence sector; budget reallocations, action plans and reform programmes for the armed forces and defence institutions.

Defence reform in Turkmenistan began in the early 1990s and can be broadly divided into four stages. The first stage covers the period of the creation of the Turkmen Armed Forces, which was shaped by the introduction of the policy of neutrality, Ni-

³⁴² Turkmenportal. 2020. Президент Туркменистана Сменил Министра Национальной Безопасности | Политика. [online] Available from: <https://turkmenportal.com/blog/25131/prezident-turkmenistana-smenil-ministra-natsionalnoi-bezopasnosti> [Accessed 2020].

³⁴³ Migration.gov.tm. 2018. Respected President Congratulated Personnel of Ministry of National Security on Professional Holiday. [online] Available from: <http://migration.gov.tm/en/uvazhaemyj-prezident-pozdravil-sotrudnikov-ministerstva-natsionalnoj-bezopasnosti-s-professionalnym-prazdnikom-2/> [Accessed 2020].

yazov's reluctance to possess military forces, and Russia's attempt to re-establish military links with the former Soviet republic.

The first period was characterized by the creation of limited armed forces, stationed at former Soviet military bases and under joint operational control with Russia. On 31 July 1992, Turkmenistan signed a Friendship and Cooperation Treaty with Russia that contained several protocols on close cooperation in the military sphere, which led to the formation of a national armed force based on the former 52nd army, composed of 110,000 personnel. Of the 300 formations and units within the 52nd army, 200 were transferred to the command of Turkmenistan, 70 remained under Russia's jurisdiction, and 30 were either withdrawn or demobilized.³⁴⁴ The Treaty on Joint Measures signed by Russia and Turkmenistan in July 1992 provided for the Russian Federation as a guarantor of Turkmenistan's security, and made former Soviet army units in the republic the basis for the new national armed forces. The Treaty stipulated that, apart from border troops, air force and air defence units remaining under Russian control, the entire armed forces would be under joint command, and would be gradually devolved to exclusive command by Turkmenistan over a period of ten years. For a transitional period of five years, Russia would provide logistical support and remunerate Turkmenistan for the right to maintain special installations in the country, while Turkmenistan would bear the costs of housing, utilities, and administration.³⁴⁵

The first military doctrine of Turkmenistan was adopted in 1994 and referred explicitly to the principle of "positive neutrality" as confirmed by UN General Assembly Resolution No. 50/80 on the Permanent neutrality of Turkmenistan.³⁴⁶ The doctrine defined the main directions for reform and modernization of the armed forces in response to geopolitical challenges stemming from Afghanistan, Uzbekistan and the Caspian region. This period was marked by a process referred to as 'Turkmenization',³⁴⁷ in which the armed forces would gradually establish independent command and control that would allow them to operate autonomously and adhere to the politics of neutrality. During this period, Turkmenistan lacked professional military officers, while reports suggest some were engaged in the illegal arms trade.³⁴⁸ The majority of Russian security forces left Turkmenistan in 1999, with the armed forces in need of substantive modernization.

The aforementioned developments – changes in the regional security environment, the departure of Russian security forces, the weak material basis of the armed forces, and the small amount of attention privileged by leaders to the military establishment – drove the second defence reform process. However, as a measure of President Niyazov's commitment to neutrality, very limited investment in the armed forces was

³⁴⁴ Belosludtsev, O., Gribovsky, A. 2002. Russia's Military-Political Relations with Kyrgyzstan, Tajikistan and Turkmenistan. [online] Available from: <http://mdb.cast.ru/mdb/3-2002/at/rmpr/> [Accessed 2020].

³⁴⁵ Turkmenistan Country Study Guide: Strategic Information and Developments. 2012. Washington DC. International Business Publications, Inc. USA.

³⁴⁶ Hrlibrary.umn.edu. 1995. Maintenance of international security, U.N. Doc. A/RES/50/80. [online] Available from: <http://hrlibrary.umn.edu/resolutions/50/80GA1995.html> [Accessed 2020].

³⁴⁷ In early 1993 about 95 percent of all officers serving in Turkmenistan were representatives of the Slav nations, or came from other republics of the CIS. In Turkmenistan's Military Co-operation and Foreign Relations with Russia. [online] Available from: https://shodhganga.inflibnet.ac.in/bitstream/10603/14320/10/10_chapter%203.pdf [Accessed 2020].

³⁴⁸ Алексеев А., 2002. Вооруженные Силы Туркменистана. [online] Cast.3ebra.com. Available from: http://cast.3ebra.com/journal/2002/3_2002turkmen/ [Accessed 2020].

made during this period.³⁴⁹ In this context, it is important to note the impact of the US-led invasion of Afghanistan in 2001, which placed Turkmenistan in a difficult position between the need to maintain neutrality, but also to respond effectively to the growing number of incidents along its border with Afghanistan. Moreover, Turkmen authorities worked hard to maintain diplomatic relations and communication with the Taliban throughout the Afghan conflict. During this period, very modest modernization and procurement processes were undertaken, normally funded in exchange for natural gas.³⁵⁰

The third phase of the defence reform began after the accession of Gurbanguly Berdimukhamedov to the position of president of Turkmenistan in 2006. Immediately after his inauguration, President Berdimukhamedov made moderate efforts to open up Turkmenistan's economy to international markets, and reverse some elements of the strategy of international isolation followed in previous years.³⁵¹ In the context of the defence sector, and in contrast to the previous leadership, he placed heavy emphasis on the modernization and reform of the armed forces. This was illustrated in the 2009 Military Doctrine of Turkmenistan. At a meeting of the State Security Council on 24 May 2009, the president underlined that "our current task is to bring modern world standards to reinforce our Armed Forces and to create appropriate conditions for the service and life of the military". He ordered officials to immediately solve problems pertaining to affordable housing for military families while emphasizing that "Turkmenistan has been and remains committed to the principles of the defence doctrine, based on the policy of neutrality, openness and good-neighborly relations."³⁵²

On 30 August 2009, the Law 'On the Status and Social Protection of the Military Personnel and Members of their Families' was adopted, which included a number of socio-economic guarantees for military personnel.³⁵³ Turkmen expert Atamurat Dzhumayev noted that "under Niyazov, the neutral status [of Turkmenistan] served as a reason for refusing to rearm; Turkmenbashi did not want to spend money on the army, which led to the degradation of the armed forces. The new President [Berdimukhamedov] treats the army differently. The proximity to unstable Afghanistan and unresolved territorial and administrative disputes with Uzbekistan forced the Turkmen government to start military reforms."³⁵⁴ In this context, the military doctrine indicates the priorities for the development of the armed forces and other troops, including reforms in the management system, enhanced combat readiness, creation of new state and military structures responsible for resource and troop mobilization; and enhanced training. In addition, the doctrine emphasizes the need to improve military infrastructure "to ensure effective operation and repair of arms and military equipment, increase its technical equipment", as well as the need to develop an industrial base for the production and repair of armaments. In line with its commitment to neutrality,

³⁴⁹ Phone interview with international security expert on 11 March 2020.

³⁵⁰ Ibid.

³⁵¹ Gelfgat V., 2014. Source: *Connections*, Vol. 13, No. 3, pp.1-20.

³⁵² ТАСС. 2007. Президент Туркменистана объявил о военной реформе и создании МЧС.

³⁵³ Ilo.org. 2009. Turkmenistan - Law No. 62-IV of 30 August 2009 'On the Status of the Military and Social Protection of Their Families'. [online] Available from: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=fr&p_isn=84133&p_country=TKM&p_classification=22 [Accessed 2020].

³⁵⁴ delfi.lv. 2009. Туркменистан Принял Новую Военную Доктрину. [online] Available from: <https://rus.delfi.lv/news/daily/abroad/turkmenistan-prinyal-novuyu-voennuyu-doktrinu.d?id=23028372&all=true> [Accessed 2020].

the military doctrine forbids the establishment of foreign military bases in the country, and the participation of the armed forces in foreign operations.

Considering Turkmenistan's defence and security architecture, its naval force received considerably more attention from political leaders during this period. Sources suggest that this was intended to reinforce Turkmenistan's Caspian naval capabilities and was demonstrated by the procurement of several Russian and Turkish corvettes and patrol boats.³⁵⁵ During this stage of defence reform, military spending grew consistently, from \$165 million in 2004, to \$210 million in 2011. In parallel, military personnel numbers were reduced from 200,000 to 50,000, with priority given to the recruitment and training of professional soldiers.³⁵⁶ Nevertheless, the combat readiness and interoperability of the armed forces remained limited, in part due to the very limited amount of regular training and exercises. For example, in 2012 the Turkmen Armed Forces held their first publicly announced, the Khazar-2012 tactical exercises. President Berdimukhamedov noted that all exercises took place within the territory of Turkmenistan, and stated that its purpose was to improve the combat readiness of the Armed Forces of Turkmenistan. He also noted that the exercises focused on naval capabilities, and that it was held in strict compliance with the military doctrine adopted in 2009.³⁵⁷

Despite attempts to improve combat readiness, issues remained, including those related to outdated Soviet military infrastructure and weapons storage facilities. On 7 July 2011, a massive blast occurred at a military warehouse in the Turkmen city of Abadan. According to government officials, two military personnel died in the blast, along with 13 civilians, with nearby houses and infrastructure damaged.³⁵⁸ In response, the Minister of Defence, Gugondyev, was demoted to the rank of colonel. However, beyond this measure, very limited information exists as to what other actions were taken to avoid such incidents in the future.

The fourth and most recent stage of defence reform in Turkmenistan can be associated with the adoption of the 2016 Military Doctrine of Turkmenistan. While the text is not publicly available, sources suggest its adoption was mostly likely in reaction to challenges in Turkmenistan's regional security environment, most notably, the challenges posed by the rise of the Islamic State and uncertainties in Afghanistan and the Caspian region. In the context of Afghanistan, NATO's troop drawdown, beginning in 2015, coincided with increasing instability in the country, particularly along the Afghan-Turkmen frontier zone in the north of the country. In 2015 and 2016 in Afghanistan's Faryab province, which borders Turkmenistan, Afghan security forces struggled to contain a resurgence of infighting. Since that period, the Taliban has also been increasingly active in Afghanistan's Jowzjan, Badghis, and Herat provinces – all of which also border Turkmenistan.³⁵⁹ At the end of April 2015, the Taliban announced

³⁵⁵ Gelfgat, 2014.

³⁵⁶ Кочоян Д., 2015. Изоляция От Внешнего Мира - Не Изоляция От Внешних Угроз: Вооруженные Силы Туркменистана В Цифрах. [online] iarex.ru. Available from: <https://iarex.ru/articles/51975.html> [Accessed 2020].

³⁵⁷ Global Security. 2016. Turkmenistan Military Spending. [online] Available from: <https://www.globalsecurity.org/military/world/centralasia/turkmen-budget.htm> [Accessed 2020].

³⁵⁸ Interfax.ru. 2011. Туркменские Власти Признали Гибель При Взрывах В Абадане 15 Человек. [online] Available from: <https://www.interfax.ru/russia/198573> [Accessed 2020].

³⁵⁹ Stronski, P., 2017. Turkmenistan at Twenty-Five: The High Price of Authoritarianism. [online] Carnegieendowment.org. Available from: https://carnegieendowment.org/files/Stronski_Turkmenistan.pdf [Accessed 21 April 2020].

a spring offensive against government forces. Throughout May and June of the same year there were regular reports of violent clashes between the Taliban and Afghanistan forces in the provinces neighbouring Herat and Badghis.³⁶⁰ Admittedly, Turkmenistan had maintained friendly relations with Afghanistan, even during the Taliban regime, allowing diplomatic presence, accepting refugees, and continuing to deliver electricity and humanitarian assistance. These reasons likely explain why an open confrontation with the Taliban has not emerged.³⁶¹ Under the aegis of the UN, in 1999 Turkmen authorities facilitated negotiations between the Taliban and other militant groups in Afghanistan, inviting the forces of Ahmad Shah Massoud and the Taliban to come together.³⁶² However, the emergence of the Islamic State, and the growing threat from radical Islamist non-state actors, may well have impacted Turkmenistan's reassessment of the security threats and challenges it faced, and thus led to the adoption of the 2016 Military Doctrine.

President Berdymukhamedov stated that the new Doctrine was created "in order to increase the defence power". The secretary of the State Security Council, and former defense minister of Turkmenistan, Yaylym Berdiev, emphasized that practical steps were being taken to strengthen Turkmenistan's defence power, including "modernization of the material and technical base of all branches of the armed forces".³⁶³ Although the text is classified, interviews with and statements by top Turkmen officials indicate that three priorities underpin the Doctrine.³⁶⁴ First, the modernization of the army and improved material-technical base of the national forces and their equipment. Second, the improvement of living conditions for military personnel and their families, as well as the provision of advanced training for military specialists. Finally, enhancing Turkmenistan's ability to respond to new and emerging security threats stemming from technological advancements, and the introduction of digitalization and modern technologies into the structure of the armed forces. These priority lines clearly indicate the need for further investment in human resources. While the role of the minister of defence has remained relatively stable, shared by Yaylym Berdiev (2009–2011 and 2015–2018) and Begench Gundogdiev (2011–2015, 2018–present), recent reports suggest that the latter has fallen out of favour. On 22 January 2020, President Berdymukhamedov issued a warning to Minister of Defence Begench Gundogdiev for alleged poor performance of official duties, shortcomings in his work, and demanded that corrections be made immediately.³⁶⁵

Further defence reforms could be influenced by current developments in the region. On 18 December 2019, Russian Security Council Secretary Nikolai Patrushev stated that "militants" were consolidating positions in Northern Afghanistan and were prepar-

³⁶⁰ Gusev, L., 2016. Territorial Defence Problems of Turkmenistan. Available from: http://cejsh.icm.edu.pl/cejsh/element/bwmeta1.element.desklight-597d4ba6-e4d1-4220-899b-f11626515038/c/AP.VII_Gusev_.pdf.

³⁶¹ Phone interview with Svetlana Dzardanova on 11 March 2020.

³⁶² Мирзеханов В., Тулпаков М., 2018. Доктрина позитивного нейтралитета и внешнеполитические приоритеты постсоветской Туркмении.

³⁶³ Turkmenistan.gov.tm. 2019. [online] Available from: <http://www.turkmenistan.gov.tm/?id=17981> [Accessed 2020].

³⁶⁴ Turkmenistan.gov.tm. 2020. Новый Номер Журнала «Национальная Армия»: История, Преемственность, Цифровизация. [online] Available from: <http://www.turkmenistan.gov.tm/?id=20235> [Accessed 2020];

Gundogar-news.com. 2016. Военная Реформа В Действии | Общество | Гундогар. [online] Available from: http://gundogar-news.com/index.php?category_id=3&news_id=8914 [Accessed 2020].

³⁶⁵ Turkmenistan.gov.tm. 2020. Новый Номер Журнала «Национальная Армия»: История, Преемственность, Цифровизация. [online] Available from: <http://www.turkmenistan.gov.tm/?id=20235> [Accessed 2020].

ing to invade Central Asia through Turkmenistan and Tajikistan. Based on this threat, and falling gas prices, which have harmed Ashgabat's ability to procure modern armaments, Turkmenistan has renewed its military and political cooperation with Russia. This is exemplified by the recent meeting between the deputies of their respective Ministries of Foreign Affairs on 4 February 2020 in Ashgabat.³⁶⁶

2.3. Police reform

Security agencies responsible for upholding the rule of law need to be structured in a way that allows them to adapt to the changing security needs and expectations of the communities they serve. It is these changes in perceived and real security needs that often drive police reform, as well as broader changes in the local, national and international context.³⁶⁷ In the 1990s in Central Asia, the provision of internal security was primarily carried out by successors to the Soviet Internal Affairs Ministry — the police or *militsiya*. By the early 21st century, remarkably little had changed, reflecting a broader continuity in policing policy and structures across the wider post-Soviet space.³⁶⁸ Turkmen *militsiya* inherited the roles, functions and working methods of their Soviet predecessors. Although renamed the National Police of Turkmenistan in 1998, little changed in terms of mentality and working culture.³⁶⁹ The Ministry of Internal Affairs (MIA) was one of the cornerstone institutions for the former president Niyazov, who emphasized its role in domestic affairs and internal security. This was linked to his reluctance to support and further invest in the Armed Forces. By early 2007, President Berdymukhamedov had taken a series of steps in an attempt to reform his law enforcement agencies, including dismissing ministers, reshuffling staff and responsibilities, and establishing a police complaints commission. The MIA was relieved of responsibility for guarding important military and civilian facilities, but powers related to traffic policing were transferred back to it. Internal Affairs Minister, Akmamed Rahmanov, who held the post prior to 2006, was dismissed, and ministry staff began going through an appraisal system with some assigned to new posts. The changes continued into the autumn of 2007.³⁷⁰

On 8 October 2007, the president convened a meeting at the Ministry of Internal Affairs and stated that “it’s as if the winds of change haven’t even touched the Internal Affairs Ministry, where levels of accountability, competence and rigour have fallen lower than ever”. In the course of the meeting, representatives including the new minister of internal affairs, Khodjamyrat Annagurbanov, were reported to have debated the nature and severity of crimes committed within the MIA. Turkmenistan’s Chief Prosecutor Muhammetguly Ogshukov read out a statement of abuses and misconduct carried out by the minister, including allegations of taking bribes and fabricating criminal cases. It was reported that some crimes were committed upon the direct instructions of the former minister, Annagurbanov, who reportedly instructed officials to hide evidence

³⁶⁶ Ng.ru. 2020. Туркменистан Укрепляет Границу С Афганистаном. [online] Available from: http://www.ng.ru/cis/2020-02-11/5_7791_turkmenistan.html [Accessed 2020].

³⁶⁷ https://www.dcaf.ch/sites/default/files/publications/documents/DCAF_BG_16_Police%20Reform_0.pdf.

³⁶⁸ Lewis D., 2011. Security Sector Reform in authoritarian regimes: The OSCE experience of police assistance programming in Central Asia. *Security and Human Rights*, Volume 22 (2): 103.

³⁶⁹ Interview with Turkmen security expert on 3 March 2020.

³⁷⁰ Institute for War & Peace Reporting. n.d. Turkmen Police Reforms Insufficient. [online] Available from: <https://iwpr.net/global-voices/turkmen-police-reforms-insufficient> [Accessed 2020].

which could criminally implicate his own nephew.³⁷¹ In the same year, chiefs of police in the capital Ashgabat and in the northern Dashoguz region were also dismissed on account of “serious shortcomings” in their performance.³⁷²

In recognition of the need to improve basic and in-service training for police officers, President Berdymukhamedov opened a new police academy on 31 August 2009. In addition, dialogue in 2008 with the EU regarding the possibility of prison inspections by the International Committee of the Red Cross, and participation of Turkmenistan in the EU’s Central Asia Drug Action Programme began, with training courses offered on the treatment of incarcerated drug addicts.³⁷³ The MIA has undergone some structural changes and has been reinforced with new competencies. For example, in 2016 the State Security Service of Public Health that deals with combating illicit drug trafficking was transferred to the MIA. Similarly, the State Service of Turkmenistan for Combating Economic Crimes became a part of the MIA in 2019.

Nevertheless, the progress of police reform in Turkmenistan remains modest, and as such demands further analysis. On the one hand, modernization and digitalization processes have been made across the Ministry of Internal Affairs, which may go some way to improving the efficiency and working practices of law enforcement bodies.³⁷⁴ Increased cooperation with international organizations also demonstrates the interests of Turkmenistan in improving the performance and technical capacity of law enforcement bodies. In 2019, under the framework of the UN Office on Drugs and Crime (UNODC) Programme for Central Asia, the UNODC Programme Office in Turkmenistan provided support to forensic laboratories belonging to the Ministry of Health and medical industry and the Ministry of Internal Affairs of Turkmenistan to develop their capacities, so as to achieve accreditation according to the international ISO 17025 standard.³⁷⁵ The MIA also participates in the Border Management in Central Asia Programme (BOMCA), aimed at enhancing security, combatting illegal trafficking and facilitating trade. The latest BOMCA phase, to which Turkmenistan is a beneficiary, focuses on strengthening institutional capacities and enhancing professional skills.³⁷⁶ The Organization for Security and Co-operation in Europe (OSCE) also has an extensive programme of cooperation with Turkmen law enforcement agencies. For example, the OSCE Centre in Ashgabat organized a series of lectures on codes of conduct and ethical standards in law enforcement in 2019. The Institute of the Ministry of Internal Affairs, the Institute of International Relations of the Ministry of Foreign Affairs and the Border Institute of the State Border Service of Turkmenistan each hosted a programme of lectures.³⁷⁷

³⁷¹ Turkmenistan.ru. 2007. Число Жалоб Граждан Туркменистана На Правоохранительные Органы Возросло Вдвое | Интернет-Газета Turkmenistan.Ru. [online] Available from: <http://www.turkmenistan.ru/ru/node/19410> [Accessed 2020].

³⁷² Institute for War & Peace Reporting. n.d. Turkmen Police Reforms Insufficient.

³⁷³ Denison, M., Security Sector Reform in Central Asia: Exploring Needs and Possibilities, 2010. P.49.

³⁷⁴ Phone interview with international security expert on 12 March 2020.

³⁷⁵ Unodc.org. 2020. UNODC Conducts the first Training for Turkmen Forensic Experts on Quality Management in line with ISO/IEC 17025. [online] Available from: <https://www.unodc.org/centralasia/en/news/unodc-conducts-the-first-training-for-turkmen-forensic-experts-on-quality-management-in-line-with-iso-iec-17025.html> [Accessed 2020].

³⁷⁶ Bomca-eu.org. n.d. Background. [online] Available from: <https://www.bomca-eu.org/en/programme/background> [Accessed 2020].

³⁷⁷ Osce.org. 2019. OSCE-organized lecture series on ethics in law enforcement takes place in Turkmenistan. [online] Available from: <https://www.osce.org/centre-in-ashgabat/436355> [Accessed 2020].

On the other hand, however, reform processes remain blurred and opaque, illustrated by recent criminal cases involving high ranking MIA officials. In October 2019, the ex- minister of internal affairs of Turkmenistan, and former police lieutenant general, Isgender Mulikov, confessed to corruption and abuse of power. At a meeting of the State Security Council of Turkmenistan, Prosecutor General Batyr Atdayev informed President Berdymukhamedov of results of the criminal case against Mulikov under the articles “Corruption” and “Abuse”. The leadership of the Ministry of Internal Affairs was then entrusted to Mammetkhan Chakiyev, who previously held the post of deputy prime minister for industry, transport and communications.³⁷⁸

Enhanced international cooperation, modest modernization programmes, and the removal of officials accused of corruption, suggests some level of reform is underway in the Turkmen law enforcement domain. In 2020, the Minister of Internal Affairs M. Chakiyev reported on the work of subordinate divisions in the first quarter of the year, as well as on the practical steps being taken to prevent crime, road accidents, and ensure fire safety in all regions of the country. At the same meeting, the president instructed that the priority should be given to maintaining public order and observing the rule of law.³⁷⁹

3. Security sector oversight: mechanisms and procedures

The word ‘oversight’ is not explicitly mentioned in the law ‘On National Security’, the law ‘On the State Security Council’, the law ‘On Military Obligations and Military Service’, or the law ‘On the Status of Military Servicemen’.³⁸⁰ The Constitution of Turkmenistan only mentions oversight twice in Section VI, Article 129, when referring to the functions of the prosecutor general of Turkmenistan: “Oversight of accurate and uniform compliance with the laws of Turkmenistan, of activities of the President of Turkmenistan, the Cabinet of Ministers of Turkmenistan, of resolutions of the Mejlis of Turkmenistan, is entrusted to the Prosecutor General of Turkmenistan and prosecutors that are subordinate to him. The prosecutor participates in the consideration of cases in the courts on the grounds and in the manner established by law”.³⁸¹ The previous law on the police does not mention oversight either. Instead, Article 24 mentions the role of the president of Turkmenistan in determining the nature of control over the actions of the police: “Control over the activities of the police is carried out in the manner determined by the President of Turkmenistan.” It also reiterates the role of the general prosecutor.³⁸² The law ‘On Organs of National Security’ has two articles on oversight (Articles 28 and 29).³⁸³ There is no mention of oversight in laws on border guards and customs control.

³⁷⁸ “СНГ СЕГОДНЯ.” 2019. Экс-Министр Внутренних Дел Туркменистана Признался В Коррупции. [online] Available from: https://sng.today/ashkhabad/11826-jeks-ministr-vnutrennih-del-turkmenistana-priznalsja-v-korruptcii.html?utm_source=yxnews&utm_medium=desktop&utm_referrer=https%3A%2F%2Fyandex.ru%2Fnews [Accessed 2020].

³⁷⁹ Заседание Госсовета безопасности: итоги двух месяцев года. 2020. [online] Available from: <https://cci.gov.tm/ajax/news.php?ID=2343>.

³⁸⁰ Laws available online from: <http://www.milligosun.gov.tm/sahypa/harby-hukuk>.

³⁸¹ The Constitution of Turkmenistan. 2016. Available from: <http://turkmenistan.gov.tm/?id=11808>.

³⁸² <http://infoabad.com/zakonodatelstvo-turkmenistana/zakon-turkmenistana-o-polici-turkmenistana.html>.

³⁸³ The Constitution of Turkmenistan. 2012. The law ‘On Organs of National Security’ (with amendments from 2018 and 2020). Available from: https://base.spinform.ru/show_doc.fwx?rgn=56409.

3.1. Legislative oversight³⁸⁴

The Mejlis plays an important role in the legislative process. Article 16 of the law 'On the Mejlis' specifies that the parliament adopts the constitution and laws, amends them and oversees their implementation and interpretation, determines the compliance of normative legal acts with the constitution, and ratifies and denounces international treaties.³⁸⁵ According to Article 6 of the law 'On the Mejlis', the Mejlis may not transfer to another body the right to issue laws on adoption of, or amendments to, the Constitution of Turkmenistan, criminal and administrative legislation, and legal proceedings; legislation in the security domain is not given the same status. Interlocutors approached for this study hinted that it is general practice for draft security sector legislation to be prepared by security ministries and the presidential office, with the Mejlis simply acting to endorse them.³⁸⁶

The Mejlis examines draft laws in the security domain through internal debates. A 2017 report released by the government's state information agency noted that the draft law of Turkmenistan 'On Combating Terrorism' was submitted to parliamentarians for consideration. As underlined by members of parliament (MPs) in the same report, ensuring peace, stability and security is the ultimate aim of Turkmen foreign policy, with such considerations guiding the legislative agenda of President Berdimukhamedov. Evidence put forward in this regard includes the international initiatives of Turkmenistan, including the consolidation of international efforts to combat serious threats to humanity, such as terrorism.³⁸⁷ Parliamentarians also reportedly considered the draft law 'On the Status of Servicemen', noting that consistent work was carried out in the country to strengthen the material and technical base of the armed forces. As part of the implementation of large-scale military reform, special attention was paid to the training of qualified military personnel, as well as the creation of favourable conditions for the completion of successful service duty, a healthy life and recovery for 'defenders of the Fatherland'.³⁸⁸

In March 2017, amendments to the law 'On Border Guards' were also discussed,³⁸⁹ although it remains unclear if any changes were proposed by the Mejlis, and if so, whether these were incorporated into the final revision of the said law. In a June 2019 session, MPs also considered draft laws 'On amending the Criminal Code of Turkmenistan', as well as several laws regarding the Adalat of Turkmenistan. In November 2019, MPs also considered draft laws to the criminal code of Turkmenistan again, as well as 'On amending the Criminal Procedure Code of Turkmenistan', 'On amendments to the Code of Turkmenistan on Administrative Offences', 'On Amending

³⁸⁴ Jasutis G., Steyne R., 2020. Parliamentary oversight in the security sector: Turkmenistan, in *Parliamentary Oversight of the Security Sector: Case Studies from Central Asia*. Available from: <https://dcaf.ch/sites/default/files/publications/documents/DCAF%20Parliamentary%20Oversight%20jan%202020%20web.pdf>.

³⁸⁵ Available from: http://www.minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=6433 [Accessed 2019].

³⁸⁶ Anonymous phone interview with diplomat from Ashgabat, on 15 July 2019.

³⁸⁷ Turkmenistan Today, 2017. Laws adopted by the Mejlis reflect the priorities of state policy of Turkmenistan. [online] Available from: <http://tdh.gov.tm/news/tm/articles.aspx&article10206&cat11>.

³⁸⁸ Turkmenistan Today, 2017. Laws adopted by the Mejlis reflect the priorities of state policy of Turkmenistan. [online] Available from: <http://tdh.gov.tm/news/tm/articles.aspx&article10206&cat11>.

³⁸⁹ Turkmenistan Golden Age, 2017. Members of the national parliament pass new laws and elect Ombudsman. [online] Available from: <http://www.turkmenistan.gov.tm/?id=13213>.

Turkmenistan's Law on Turkmenistan's Internal Affairs Act', and 'On Amending the Law on Customs Service'.³⁹⁰

Article 11 of the law 'On the Mejlis' provides for the parliament to examine questions related to approval of the state budget of Turkmenistan and reports on its implementation.³⁹¹ The budget is prepared by the Ministry of Finance, and after a governmental review, is submitted by the president to the Mejlis. On 24 November 2017, the Mejlis approved the national budget for 2018, with predicted revenues of 95.5 billion manats, and expenses of approximately the same amount (which, using Turkmenistan's official exchange rate, amounts to \$27.29 billion).³⁹² In late 2018, a national budget of 83.8 billion manats was approved for 2019, while on 2 December 2019, the Mejlis discussed the possible implementation of the 2020 budget, and approved reported revenues of 84.39 billion manats, and expenses of 84.29 billion manats.³⁹³ There is, however, no public information concerning debates or amendments regarding the adoption of the budget. Interviews with Turkmen interlocutors suggest that despite the role of the Mejlis in reviewing and approving state budgets, MPs as a rule vote in their favour.³⁹⁴ The defence budget is not publicly announced, although the most recently available information suggests that the total defence budget ranges from \$200 million to \$719 million.³⁹⁵ It is not clear, however, whether this is part of the state budget, and therefore reviewed by the Mejlis or not.

The Mejlis structure does not include any committee or commission responsible for national defence and security.³⁹⁶ Unsurprisingly, parliamentary oversight in the security domain remains rather limited. The Parliamentary Committee on the Protection of Human Rights and Liberties is the only known oversight body to exist within the Mejlis, although it does not focus exclusively on the security sector.

Article 16 of the law 'On the Mejlis' explains that the parliament approves the programme of activities of the Cabinet of Ministers. It does not exclude the Ministry of Defence, the Ministry of Internal Affairs and other governmental agencies linked to security and military affairs. This means that, as a minimum, the Mejlis can access the programme of activities carried out by security actors and might debate it. Such

³⁹⁰ Turkmenportal. 2019. Парламент Туркменистана Принял Госбюджет-2020 И Ряд Новых Законов | Политика. [online] Available from: <https://turkmenportal.com/blog/23479/parlament-turkmenistana-prinyal-gosbyudzhet2020-i-ryad-novyh-zakonov> [Accessed 2020].

³⁹¹ Available from: http://www.minjust.gov.tm/ru/mmerkezi/doc_view.php?doc_id=6433 [Accessed in August 2019].

³⁹² RadioFreeEurope/RadioLiberty. 2017. Turkmenistan's Bogus Budget. [online] Available from: <https://www.rferl.org/a/turkmenistan-bogus-budget/28892094.html> [Accessed 21 April 2020].

³⁹³ "СНГ СЕГОДНЯ." 2018. Меджлис Туркменистана Принял Госбюджет Страны На 2019 Год. [online] Available from: <https://sng.today/ashkhabad/8509-medzhlis-turkmenistana-prinjal-gosbjudzhet-strany-na-2019-god.html> [Accessed 21 April 2020];

EADaily. 2017. Доходы Госбюджета Туркмении В 2018 Году Снижены На 7,8%. [online] Available from: <https://eadaily.com/ru/news/2017/11/27/dohody-gosbyudzheta-turkmenii-v-2018-godu-snizheny-na-78> [Accessed 2020].

³⁹⁴ Anonymous interview with representative of the Turkmen diaspora, on 11 July 2019.

³⁹⁵ IISS, "The Military Balance 2016", pp.185–207, estimates the 2014 Turkmen defence budget as \$719 million. Although these numbers are outdated, 2014 is the last year the IISS published budget numbers for all five Central Asian Republics. Other sources estimate the defence budget as substantially lower, at \$200 million. Global Security. 2016. Turkmenistan Military Spending. Available from: <https://www.globalsecurity.org/military/world/centralasia/turkmen-budget.htm>;

Gorenburg, D., 2014. External Support for Central Asian Military and Security Forces. Working Paper, SIPRI & OSF, p.13. Available from: <https://www.sipri.org/sites/default/files/SIPRI-OSFno1WP.pdf>;

Khrolenko, A., 2019.

³⁹⁶ Turkmenistan Golden Age, 2018. Heads of parliamentary committees appointed. Available from: <http://turkmenistan.gov.tm/?id=15978>

questions are extensively discussed within the State Security Council, led by the president, which provides an opportunity for ministerial bodies to update the president on the conduct of the security agencies under their control. While in 2018 no direct references were made to the role of the Mejlis in overseeing security actors, the president did order the monitoring of discipline among military and law enforcement personnel, but did not specify which institution should be responsible for this.³⁹⁷ Despite the absence of established oversight structures within the Mejlis, reports suggest that the periodic removal of senior security officials acts as a deterrent against ill-treatment at the hands of the security services, in particular against non-Turkmen service personnel.³⁹⁸ This has been linked to a reported decrease, since 2007, in cases of discrimination against non-Turkmen or mixed-ethnicities service personnel in the upper echelons of the security sector.³⁹⁹

According to Article 16 of the law 'On the Mejlis', the parliament considers, on the proposal of the president of Turkmenistan, the appointment and dismissal of the chair of the supreme court of Turkmenistan, the prosecutor general of Turkmenistan, the minister of internal affairs of Turkmenistan, and the minister of Adalat of Turkmenistan. While this provides the Mejlis with some authority regarding appointments to key ministerial posts, the final decision rests with the president. For example, in June 2018, the president reshuffled key ministerial positions, appointing a new head to the Ministry of National Security, the Ministry of Defence, and the State Border Guard Service.⁴⁰⁰ Later, in December 2018, the president also appointed the Deputy Minister of Internal Affairs, Akhmet Khodzатов.⁴⁰¹ No information was provided as to whether his candidacy was discussed in the Mejlis. In February 2020, President Berdymukhamedov also made personnel changes in the leadership of the Ministry of National Security of Turkmenistan. Linked with the transfer to another job, the head of state dismissed Major General Yaylim Berdiev from the post of minister of national security of Turkmenistan. Colonel Gurbanmyrat Annaev, who previously held the post of deputy head of this ministry, was appointed the new minister of national security of Turkmenistan.⁴⁰² Again, no information was provided as to whether his candidacy was discussed in the Mejlis. The same trend can be observed in the judiciary when, in 2017, the prosecutor general and at least nine other prosecutors were fired and subsequently arrested on corruption charges.⁴⁰³ It was not clear if his successor was discussed in the Mejlis. Beyond elective functions, the president also has the power to unilaterally establish state bodies with law enforcement powers, such as the State

³⁹⁷ Ministry of Adalat of Turkmenistan, 2019. The results of the activities of law enforcement agencies for 6 months of the year were considered at a meeting of the State Security Council. Available from: http://www.minjust.gov.tm/ru/php/habar.php?news_id=659.

³⁹⁸ Security Sector Reform in Central Asia: Exploring Needs and Possibilities, p.52.

³⁹⁹ Ibid.

⁴⁰⁰ Eurasianet, 2018. Turkmenistan's president effects radical switch-around of top security officials. [online] Available from: <https://eurasianet.org/turkmenistans-president-effects-radical-switch-around-of-top-security-officials>.

⁴⁰¹ Chronicles of Turkmenistan, 2018. Deputy Minister of Internal Affairs appointed head of Mary Police. [online] Available from: <https://www.hronikatm.com/2018/12/zamestitelem-ministra-vnutrennih-del-naznachen-glava-polit-sii-maryi/>.

⁴⁰² Turkmenportal. 2020. Президент Туркменистана Сменил Министра Национальной Безопасности. [online] Available from: <https://turkmenportal.com/blog/25131/prezident-turkmenistana-smenil-ministra-nacionalnoi-bezopasnosti> [Accessed 2020].

⁴⁰³ Freedom in the World 2018: Turkmenistan.

Service for Combating Economic Crimes, created in 2017 and tasked with preventing and investigating corruption-related offences.⁴⁰⁴

According to Article 16 of the law 'On the Mejlis', the parliament is entrusted with examining issues related to peace and security, and the main direction for the domestic and foreign policy of Turkmenistan. While the parliament has discussed a number of amendments to – and adoptions of – laws governing the security sector, it is not known whether citizens are consulted or involved in parliamentary processes pertaining to the security sector. It is therefore difficult to assess whether the parliament is able to effectively represent the interests and security needs of its citizens and ensure that these are translated into policies.

3.2. Executive oversight

As the head of state and Supreme Commander of the Armed Forces of Turkmenistan, President Gurbanguly Berdymukhamedov exerts tight control over the security and defence apparatuses of Turkmenistan.⁴⁰⁵ As the ultimate authority responsible for appointing ministers, justice officials, commanders of the armed forces, and approving national military doctrines, President Berdymukhamedov's authority over national security and defence structures extends to all aspects of security provision, management and oversight.⁴⁰⁶ He forms and presides over the State Security Council, and submits the budget to the Mejlis for consideration. This competence is enshrined in the Constitution of Turkmenistan and specialized laws regulating security services. For example, according to Article 1 of the law 'On Organs of National Security', the national security agencies of Turkmenistan are special bodies within the structure of state governance, subordinate to the president of Turkmenistan.⁴⁰⁷ The law on the police of Turkmenistan (Article 8) stipulates that the police are managed by the minister of internal affairs of Turkmenistan, who is appointed and dismissed by the president of Turkmenistan in accordance with the procedure established by the Constitution of Turkmenistan. In the velayats and the city of Ashgabat, the police are led by the heads of police departments, who are appointed and dismissed by the president of Turkmenistan.

Intriguingly, the constitution provides for the introduction of an independent commissioner for human rights (ombudsperson). The parliament, therefore, adopted the Ombudsperson Act in 2016, which established the mandate and functions of the ombudsperson. Although the ombudsperson enjoys legal immunity, cannot be prosecuted, arrested, or detained for official acts while in office,⁴⁰⁸ secondary legislation subjects his/her appointment to presidential approval.⁴⁰⁹ This challenges his/her impartiality and independence, and links to the executive office. In January 2017, the Ombuds-

⁴⁰⁴ Ibid.

⁴⁰⁵ The Constitution of Turkmenistan. 2016. Article 68. [online] Available from: https://www.legislationline.org/download/id/6502/file/Turkmenistan_Constitution_am2016_eng.pdf.

⁴⁰⁶ The Constitution of Turkmenistan. 2016. Article 71. [online] Available from: https://www.legislationline.org/download/id/6502/file/Turkmenistan_Constitution_am2016_eng.pdf.

⁴⁰⁷ The Constitution of Turkmenistan. 1993. The law 'On Organs of National Security of Turkmenistan' (№ 4, art.32, with amendments from 08.08.1997, 15.09.1998, 14.06.2003).

⁴⁰⁸ United States Department of State Bureau of Democracy, Human Rights, and Labor, 2019. Turkmenistan 2018 Human Rights Report.

⁴⁰⁹ United States Department of State Bureau of Democracy, Human Rights, and Labor. Country Reports on Human Rights Practices for 2015. Available from: <https://2009-2017.state.gov/j/drl/rls/hrrpt/humanrightsreport/>.

man Act came into force, with the Mejlis electing a human rights ombudsman in March 2017 – Yazdursun Gurbannazarova – on the proposal of the president.⁴¹⁰ The Act also obliged the ombudsperson to submit an annual human rights report to the president and parliament,⁴¹¹ the first of which was submitted in June 2018 for the period March 2017 to December 2017.⁴¹² According to observers, only 25 of 254 written reports were resolved – although it is unclear which of these relate to the actions of the security forces – while the report did not include substantive human rights recommendations relating to the security sector.⁴¹³ In 2018, her office received 985 complaints – 479 in written form, of which 15 (3.1%) related to the activities of security actors.⁴¹⁴ No public information was shared on the nature and outcomes of these complaints. In 2019, Gurbannazarova’s office received 985 complaints, the majority of them on housing issues and disagreement with a wide range of court decisions. According to the report, 16 were resolved. Overall, 150 complaints were received on civil and political rights violations, with 3 complaints being resolved.⁴¹⁵

3.3. The role of the prosecution service in oversight

The Constitution of Turkmenistan envisions a great role in overseeing the security services for the prosecution service. Articles 129, 130 and 131 stipulate that the prosecutor general of Turkmenistan and his subordinate prosecutors are responsible for overseeing the exact and standardized application of the laws, presidential and ministerial acts, and resolutions of the Mejlis. The prosecutor’s office oversees the legality of operational search activities and criminal investigations. The prosecutor general is seen and heard at State Security Council debates with regard to the activities of security actors. For example, on the evening of 3 December 2019, the former minister of internal affairs, Isgender Mulikov, appeared on national TV in handcuffs, black prison garb and had his head shaven. In a briefing to the president, Prosecutor General Batyr Atdayev explained that Mulikov, who had served as the country’s top minister since May 2009, abused his job to take huge bribes and engage in embezzlement. State television showed footage of items purportedly found during searches of Mulikov’s property. These included huge stacks of dollar notes and expensive watches and jewellery.⁴¹⁶ The general prosecutor’s office is also responsible for oversight of the implementation of the law ‘On Border Guards’ (Article 18).⁴¹⁷

The law ‘On Prosecution’ in Turkmenistan reiterates the above-mentioned article of the Constitution in its Article 3.1. It also mentions that the objective of the general prosecutor’s office in Turkmenistan is to: “ensure the rule of law and strengthen the rule of law, consisting in the protection of (...) the rights of state authorities, the con-

⁴¹⁰ United States Department of State Bureau of Democracy, Human Rights, and Labor, 2019. Turkmenistan 2018 Human Rights Report.

⁴¹¹ Ibid.

⁴¹² Ibid.

⁴¹³ Ibid.

⁴¹⁴ The State News Agency of Turkmenistan, 2019. Report on the work of the Ombudsperson in Turkmenistan in 2018. [online] Available from: <http://tdh.gov.tm/news/en/obd.aspx>.

⁴¹⁵ Human Rights Watch. 2020. Turkmenistan: Events of 2019. [online] Available from: <https://www.hrw.org/world-report/2020/country-chapters/turkmenistan> [Accessed 2020].

⁴¹⁶ Eurasianet. 2019. Turkmenistan: Interior Minister resurfaces in handcuffs. [online] Available from: <https://eurasianet.org/turkmenistan-interior-minister-resurfaces-in-handcuffs> [Accessed 2020].

⁴¹⁷ Eurasianet. 2019. Turkmenistan: Interior Minister resurfaces in handcuffs. [online] Available from: <https://eurasianet.org/turkmenistan-interior-minister-resurfaces-in-handcuffs> [Accessed 2020].

trol of the Armed Forces and other troops, local government, enterprises, institutions, organizations and public associations".⁴¹⁸ It also discusses the linkages between the Ministry of Defence of Turkmenistan and the military prosecutor's office in Article 26, and suggests that upon the receipt of complaints, the military prosecutor's office is authorized to inspect the activities of the Turkmen Armed Forces.⁴¹⁹

4. Transgressions by Security Forces

The government of Turkmenistan does not publish crime statistics, and most data comes from informal sources. This calls into question the validity and reliability of external reports and obstructs the ability to systematically assess the scope and types of transgressions that are committed by individuals in the security forces. During the presidency of Nyazov, Turkmen security services were notoriously involved in grave crimes including the resale of confiscated narcotics, illegal imprisonment, torture, etc.⁴²⁰ Official Turkmen sources suggest that in 2010–2020, corruption and abuse of power were the major issue in Turkmenistan. Below is a list of senior security officials who have committed crimes and who have been denounced by the government:

⁴¹⁸ The Constitution of Turkmenistan. 2012. The Law 'On Prosecution'. [online] Available from: <http://www.infoabad.com/zakonodatelstvo-turkmenistana/zakon-turkmenistana-o-prokurature-turkmenistana.html>.

⁴¹⁹ The Constitution of Turkmenistan. 2012. The Law 'On Prosecution'. [online] Available from: <http://www.infoabad.com/zakonodatelstvo-turkmenistana/zakon-turkmenistana-o-prokurature-turkmenistana.html>.

⁴²⁰ Turkmenistan.ru. 2002. Президент Туркменистана признал неудовлетворительной работу руководства КНБ. [online] Available from: <http://www.turkmenistan.ru/ru/node/14543> [Accessed 2020].

Government agency/ role	Years in office	Name	Reason for dismissal
Minister of National Security/Minister of Defence	2011–2015 as Minister of National Security, 2015–2018 as Minister of Defence, 2018–2020 as Minister of National Security	Yaylym Berdiev	On 22 January 2020, a severe reprimand was announced “for improper performance of duties, work shortcomings”, resulting in him being relieved of the post of secretary of the State Security Council. On 12 February 2020, he was relieved of his post in the MNS and was transferred to another job. ⁴²¹
Minister of Defence/ Chief of the State Border Guard Service	March–July 2011 as Chief of the Border Guard Service, 2011–2015 as Minister of Defence, 2016–2017 as Chief of the Border Guard Service, 2018–present as Minister of Defence	Begench Gundogdyev	2011 – lowered in rank for unknown reasons and transferred to the Ministry of Defence. 2017 – lowered to the rank of colonel and reprimanded due to “shortcomings in work”. ⁴²²
State Migration Service/Presidential Guard	2015–2017 as head of the Migration Service, 2017–2019 as head of the Presidential Guard	Melis Nobatov	Arrested for corruption and money laundering in December 2019. ⁴²³
Ministry of the Interior	2009–2019 as Minister of the Interior	Isgender Mulikov	Dismissed for “serious shortcomings in his work”. He publicly confessed to corruption on TV in December 2019. ⁴²⁴
Prosecutor General	2013–2017 as prosecutor general	Amanmurad Hallyyev	Dismissed for corruption and bribery and arrested in May 2017 together with 50 other members of staff from the prosecutor’s office. ⁴²⁵

⁴²¹ Радио Азатлык. 2020. Яйлым Бердиев Уволен С Поста Министра Национальной Безопасности. [online] Available from: <https://rus.azathabar.com/a/30431081.html> [Accessed 2020].

⁴²² Радио Азатлык. 2020. Яйлым Бердиев Уволен С Поста Министра Национальной Безопасности. [online] Available from: <https://rus.azathabar.com/a/30431081.html> [Accessed 2020].

⁴²³ Turkmenportal. 2019. Осуждённые В Туркменистане Экс-Министр Внутренних Дел И Бывший Глава Миграционной Службы Раскаяться В Преступлениях | Происшествия. [online] Available from: <https://turkmenportal.com/blog/23555/osuzhdennyye-v-turkmenistane-eksministr-vnutrennih-del-i-byvshii-glava-migratsionnoi-sluzhby-raskayalis-v-prestupleniyah> [Accessed 2020].

⁴²⁴ Радио Азатлык. 2019. Президент Туркменистана Уволил Министра Внутренних Дел Муликова, Выгнав Его Из Зала Заседания. ВИДЕО. [online] Available from: <https://rus.azathabar.com/a/30193327.html> [Accessed 2020].

⁴²⁵ Радио Азатлык. 2017. Бывший Генпрокурор Халлыев Арестован Вместе С Десятками Силовиков. [online] Available from: <https://rus.azathabar.com/a/28482151.html> [Accessed 2020].

State Customs Service	2017–present as Chief of the State Customs Service	Atadurdi Osmanov	Reprimanded and lowered in rank in June 2019, for allowing corruption to “flourish in the Customs Service of Turkmenistan”. ⁴²⁶
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The arrests, detentions and imprisonments of high-ranking officials suggest that security actors can be held accountable for transgressions. Their engagement in corruption schemes however demonstrates an urgent need for significant revision and reinforcement of the principles of integrity and ethics within the security services. Some reports suggest that, for example, security personnel solicit bribes in the course of their official duties to supplement their income, traffic police often target vehicles with commercial (yellow) licence plates for bribes. In October 2019, the prosecutor general referred to several cases of bribery, money extortion and abuse of power conducted by low ranking police officers, which goes to substantiate the above information⁴²⁷. At this level, one can refer to the commissioner for human rights (ombudsperson) and her report with regard to misconduct and petty crime within the security services. In 2018, her office received 985 complaints – 479 in written form, of which 15 (3.1%) related to the activities of security actors. No public information was shared on the nature and outcomes of these complaints.

Conclusion

This paper has explored the trajectory and progress of security sector reforms in Turkmenistan, beginning in the first section, by identifying the functions and mandates of Turkmenistan’s statutory security providers, and then analysing security sector reforms across the intelligence, defence and law enforcement spheres. The subsequent sections reviewed oversight mechanisms as set out in the constitution and laws of Turkmenistan, and mapped transgressions by Turkmen security actors. This section provides concluding remarks on areas of the security sector which could benefit from further reforms.

Notwithstanding the modest reform processes underway across the Turkmen security sector, there remains a lack of clarity at the strategic level regarding the direction and objectives of such reform processes, as well as the role that oversight bodies play within them. To this end, scope exists for Turkmen authorities to consider:

- Defining a strategic-level SSR strategy: while acknowledging the importance of the 2016 Military Doctrine in driving security sector reform processes in Turkmenistan, these documents could be supplemented by a strategic-level SSR strategy. Currently, the absence of public SSR concept and strategy papers, and related ministerial guidance, makes the process unclear and to a certain extent, covert. In addition, such a strategic-level SSR reform could help unite the ambitions and aims of sectorial or agency-level reform initiatives, which currently operate in partial isolation from one another. The State Security Council should be assigned as the institution leading reforms of the security sector.

⁴²⁶ Fergana.agency. 2019. Бердымухамедов Разжаловал Начальника Таможни За Разгул Коррупции. [online] Available from: <https://fergana.agency/news/108266/> [Accessed 2020].

- Strengthening the oversight role of the Mejlis: while recognizing the important role the Mejlis play in overseeing the security, additional efforts could be made to involve the Mejlis in oversight processes through, for example, encouraging debates in the Mejlis on reform processes within different security agencies. While acknowledging the particularities and importance of the presidential system, the adoption of a law on parliamentary oversight should identify the role of the Mejlis in oversight of the security sector.

Strengthening the role of external oversight agencies and commissions: in line with Turkmenistan's constitution, the president exercises direct oversight and control over Turkmen security agencies. Beyond strengthening the role of the Mejlis in this process, national authorities might also consider further empowering the newly created ombudsperson, who could consider complaints received against security actors.

Intelligence sector reform

As noted in subsection 2.1. on intelligence section reform, Turkmenistan has made some progress in reforming its intelligence sector, including the removal and disciplining of officials suspected of corruption or unethical behaviour. Further measures include functional changes within the Ministry of National Security (MNS) in order to curtail, and in some cases, remove extraordinary powers which might unduly limit civil freedoms. A reorientation of MNS powers towards external security threats, paving the way for other law enforcement bodies to focus on internal security threats of a criminal nature would remain of immense importance. Notwithstanding these, scope exists for further reform of Turkmenistan's intelligence sector, including:

- Delineating intelligence versus law enforcement competencies: as with many countries in the post-Soviet space, Turkmenistan's primary intelligence agency, the MNS, can be described as a hybrid agency, vested with a combination of both law enforcement and intelligence functions. Building on the commitment of the current Turkmen administration to reform its intelligence sector, and in line with best practice in intelligence sector governance, national authorities might explore options such as demilitarization, limits on certain law enforcement powers and on conducting pretrial investigations. The first step in such a process might be to review legislation and regulatory mechanisms regarding the MNS, and to transfer certain powers to other security agencies.
- Enhancing inter-agency cooperation: considering the president's comments in 2018 on the need to enhance cooperation between the MNS and other security agencies, mechanisms to strengthen inter-agency cooperation could be further explored. Such coordination may go some way to limit the duplication of investigative processes and ensure a more efficient allocation of human and financial resources, thereby contributing to national security.
- Reinforcing respect for human rights and the rule of law: as the primary agency responsible for addressing threats to national security, including international terrorism and extremism, the Ministry of National Security plays an important role in Turkmenistan's overall security architecture. To this end, it is important that in accordance with Article 5 of the Law of Turkmenistan on Organs of National Security, national security agencies carry out their activities in strict com-

pliance with the rights and freedoms of citizens. To this end, national authorities could consider initiatives to enhance respect for human rights within the MNS and make redress for citizens easier to seek. This might include an enhanced role for the ombudsperson of Turkmenistan and clear complaints procedures.

Defence sector reform

Under President Berdymukhamedov, reforms within the defence sector have increased in pace and scope, particularly within the Turkmen Naval Force. However, these have been primarily limited to rearmament, rather than being structural or governance-based reforms. To this end, and in accordance with the findings of this study, Turkmen authorities might consider exploring the following areas:

- Adapting human resources policy in the armed forces: armed forces and their supporting bodies should represent the society they serve, as the success of any public organization is defined by its ability to harness diversity of thought, skills and talents within society. Further investment in human resources management, and particularly merit-based recruitment processes, could form part of such a strategy.
- Improving conditions of service and ethical behaviour in the armed forces: while in recent years, Turkmen authorities have procured a wide array of new armaments for the armed forces and its supporting bodies, only modest efforts have been made to improve the conditions of service for personnel, particularly conscripts. To this end, Turkmen authorities might consider exploring strategies to improve basic and in-service training, as well as the living conditions of military personnel. Ethics in the armed forces should become an important element that would harness national and international efforts. The establishment of an Ethics Board and subsequent legislation related to the integrity of the defence system would be a welcome step forward. Further efforts could be made to make the complaints process more transparent, by providing information on the nature and outcomes of complaints within the armed forces. The international community could also support such efforts through the International Conference of Ombuds Institutions for the Armed Forces, a non-partisan advisory forum, open to states without dedicated military ombudspersons, such as Turkmenistan.
- Strengthening physical security stockpile management practices: while reports into the 2011 arms depot explosion in Abadan vary as regards the number of casualties,⁴²⁸ beyond the demotion of the then minister of defence, Gugondyev, very little information exists as to the approach taken by Turkmen authorities to avoid such an incident in the future. To this end, Turkmen authorities might consider strengthening physical security stockpile and management practices through enhanced engagement with the international community.

⁴²⁸ Smallarmssurvey.org. 2020. Small Arms Survey - Unplanned Explosions at Munitions Sites. [online] Available from: <http://www.smallarmssurvey.org/weapons-and-markets/stockpiles/unplanned-explosions-at-munitions-sites.html> [Accessed 2020];

Interfax.ru. 2011. Туркменские Власти Признали Гибель При Взрывах В Абадане 15 Человек. [online] Available from: <https://www.interfax.ru/russia/198573> [Accessed 2020].

Law enforcement reform

The Turkmen security sector privileges law enforcement functions to a wide variety of agencies. Given that law enforcement bodies are generally the most visible of all government agencies, and therefore crucial to building confidence and trust between the state and citizens, Turkmen authorities might consider exploring the following areas:

- Strengthening integrity and professional working practices: while Turkmen authorities have made efforts to modernize and professionalize working practices within the Ministry of Internal Affairs and the National Police of Turkmenistan, partly through the removal of senior officials accused of corruption, the opening of a dedicated police academy, and substantial engagement with the international community, scope does exist for further reforms. This is exemplified by ongoing reports of corruption and bribery across law enforcement structures. Turkmen authorities might therefore consider devising a strategic-level police reform strategy, with a focus on building individual and organizational integrity across law enforcement bodies. A first step in such a process might be the implementation of an integrity plan, which would systemically identify corruption-prone and high-risk corruption areas for law enforcement. A broader police reform strategy could then be developed based on these findings, which would also focus on merit-based recruitment processes, internal control measures, and stringent vetting procedures.
- Introducing community policing principles: while Turkmen law enforcement bodies have extensive engagement with the international community on police training, including in the area of community policing, no known community policing concept exists. While the concept of community policing remains contested, consensus exists that such an approach can be instrumental in building ties with local communities, and by extension, trust in law enforcement bodies.
- Modernizing law enforcement equipment: as the most visible apparatus of law enforcement organs, the traffic police play a crucial role in upholding the rule of law and building trust with communities. In order to do so, however, law enforcement bodies require modernized equipment, and training in the latest working practices. To this end, the international assistance community could consider engaging with Turkmen authorities in this area, with a view to opening dialogue for broader law enforcement reforms.

Security Sector Reform

Muqbil Toshotar

Introduction

In 2019, The Economist named Uzbekistan “the country of the year,” noting that globally, “no other country travelled as far in 2019”⁴²⁹ when it came to implementing economic and other reforms. International commentators hail the ongoing transformation as a significant achievement for the state, which until recently was consistently characterized as “the archetypal post-Soviet police state: corrupt, brutal and closed.”⁴³⁰

However, in Uzbekistan itself, the initial euphoria caused by the change in the country’s leadership in 2016 is increasingly giving way to disappointment among the general population, as the internal socio-political situation remains unchanged. Remaining problems in both the “capacity” and “quality” of the state, in particular the security agencies, have significantly contributed to this growing sense of frustration. Given the widespread abuses of the security forces, which Shavkat Mirziyoyev even compared to the infamous Stalinist NKVD at the beginning of his term in office,⁴³¹ security sector reform has become a pressing issue for both local and international actors.

This article examines the challenges and prospects of the security sector reform in Uzbekistan following the death of the chief architect of the Uzbek security system, Islam Karimov. The main idea of the article is the assertion that the key challenge of the security sector reform in Uzbekistan, associated with Shavkat Mirziyoyev’s rise to power, is reforming the security agencies and the judicial system, whereas the military reform does not appear relevant at this stage. Opportunities for such a reform emerged after the sudden death of the first president, Islam Karimov. The society supported the initiatives of his successor Shavkat Mirziyoyev. The high turnout in the 2016 early presidential elections provided Mirziyoyev with legitimacy and *carte blanche* for priority reforms. Initially, the security agencies ended up disoriented, but at this point, the actual results of reforms in both the security agencies and the judicial system are quite modest.

International donors and development agencies, which increasingly associate security threats with low socio-economic development, have also begun to look for new approaches to combat the causes of instability in Central Asia, in particular in Uzbekistan.

All these factors have led to an increased interest in Uzbekistan’s security architecture. While it would be prudent not to expect too much change in this area in the near future; nevertheless, the moment seems to be appropriate for analysing the dynamics of Uzbekistan’s security sector and identifying possible ways to reform it. Given the opaque nature of Uzbek politics, the coverage of Uzbekistan’s security sector has been relatively scarce so far. The existing literature is either outdated⁴³² or focuses

⁴³² Hartog, Merijn. 2010. Security Sector Reform in Central Asia: Exploring Needs and Possibilities. The Centre of European Security Studies CESS, Greenwood Paper 25; Jos Boonstra, Erica Marat and Vera Axyonova. 2013. Security Sector Reform in Kazakhstan, Kyrgyzstan and Tajikistan: what role for Europe? EUCAM Working Paper No.14; Philipp H. Fluri, Martin Malek. 2008. Defence and Security Sector Transition in Central Asia. DCAF.

on specific aspects of the reform, such as the (insufficient) role of Parliament in overseeing the security sector,⁴³³ changes in the relevant legislation,⁴³⁴ or (unsuccessful) attempts to promote police reform in Central Asian countries.⁴³⁵

This article aims to fill this gap by describing the security sector in the context of Uzbekistan's political history as of 2020. It examines in detail each of the main actors in the security sector — the relevant ministries of Islam Karimov's era and the new centers of power having emerged under Shavkat Mirziyoyev. In addition, the article will consider judicial reforms, the situation with civil society and public attitudes towards security agencies. The final part of the article discusses ways to reform the security sector and suggests potential entry points for relevant initiatives.

1. Security Agencies of Uzbekistan

It makes sense to discuss security sector reform in Uzbekistan only in the context of the broader system of political and economic power relations. The socio-political context in which the security sector was formed and is being reformed (or, rather, not being reformed) can be characterized as neo-patrimonialism⁴³⁶ or patronage presidency.⁴³⁷ But it would make more sense to use the concept of “patronal presidentialism,” which means “a social equilibrium in which actors pursue their political and economic goals through personalized exchange of rewards and punishments, rather than uniting around abstract and impersonal principles such as ideological beliefs or categories that include people with whom the actor has not actually met in person.”⁴³⁸

Uzbek society has always been a highly patronal society. In order to illustrate the patronal nature of Uzbek politics, the following will briefly outline the political history of Uzbekistan until 2020.

By the end of the eighteenth and early nineteenth centuries, a regular army, a taxation system and a bureaucratic apparatus began to form in the settled states that had developed on the territory of present-day Uzbekistan. This can be seen as a transition from political power based on tribal or kinship ties to patrimonial statehood.⁴³⁹ Amlokdoors (tax collectors) and beks (rich landowners) were subordinate to the khan or emir (commander) and proved their loyalty through regular gifts and bribes. The Russian Empire, which annexed Central Asia in the nineteenth century, ruled the region through a combination of demonstrative selective punishment and the co-optation

⁴³³ Aida Alymbaeva, Rustam Burnashev, Grazvydas Jasutis, Parviz Mullojanov, Richard Steyne, Farkhod Tolipov, Parliamentary Oversight of the Security Sector: Case Studies from Central Asia Bishkek, Kyrgyzstan: DCAF, 2020.

⁴³⁴ Erica Marat. 2012. Security Sector Reform in Central Asia. DCAF Regional Programmes Series 13.

⁴³⁵ David Lewis. 2011. “Reassessing the Role of OSCE Police Assistance Programing in Central Asia”, Occasional Paper Series, No. 4. Доступно по адресу: http://www.soros.org/initiatives/cep/articles_publications/publications/occasional-paper-4-20110411.

⁴³⁶ Ilhamov Alisher. 2007, “Neopatrimonialism, interest groups and patronage networks: the impasses of the governance system in Uzbekistan”. *Central Asian Survey*, 26 1, 65–84.

⁴³⁷ Hale, Henry. 2014, “Patronal politics: Eurasian regime dynamics in comparative perspective”. Cambridge University Press; Laruelle, Marlene. 2012 “Discussing neopatrimonialism and patronal presidentialism in the Central Asian context”. *Demokratizatsiya* 20 4, 301.

⁴³⁸ Hale, Henry. 2014, “Patronal politics: Eurasian regime dynamics in comparative perspective”. Cambridge University Press.

⁴³⁹ Barisitz, Stephan. 2017. “Central Asia and the Silk Road Economic Rise and Decline over Several Millennia”. Springer.

of local patronage networks into the imperial system. Local communities were given considerable freedom of action in self-government, which led to the preservation of the basic patronalistic principles of local government. From a historical perspective, the Bolshevik Revolution of 1917 represents an attempt at a sharp break with the patronage policy of the Russian Empire. The Bolsheviks, under the leadership of Vladimir Lenin, tried to implement their political and economic slogans, mainly relying not on a personified exchange of rewards and punishments, as was still accepted in these lands, but on the abstract and impersonal ideology of class struggle.

Henry Hale calls this Leninist attempt to nullify patronalism in Eurasian politics as a “failed anti-patronalism revolution,” as the Bolsheviks, who wanted to consolidate their power after the seizure of the state, ended up resorting to the same personified patronal politics.⁴⁴⁰

Since Stalin, every leader of the USSR has relied heavily on his patrimonial networks to gain and maintain power. This statement also applies to the local elite of the Uzbek SSR, which can be described as sub-patrons acting as intermediaries between Moscow and the national republic. The well-being and power of these sub-patrons depended both on the official position and office (which required good relations with the metropolis), and on the control over the informal distribution of resources and the presence of patron-client networks on the ground.

As illustrated by the long-term reign of the First Secretary of the Communist Party of Uzbekistan Sharaf Rashidov (1959-1983) and the short-term unsuccessful reigns of all other first secretaries after him, what was critical for any leader was the ability to mediate between the demands of the central authorities and the realities of power and governance in the periphery.

Maintaining stability in the republic, demonstrating personal loyalty to the head of the USSR Leonid Brezhnev in every possible way and supplying resources to the central authorities, Sharaf Rashidov managed to attract huge sums from the budget of the Soviet state and channel most of these funds into his own patronage networks. This, in turn, allowed him to ensure the supremacy of the Samarkand clan in the republic throughout the long twenty-four years of his rule, while skilfully balancing with the patronage networks of Tashkent and Fergana. As shown by the widely publicized Cotton Affair of the 1980s, by systematically falsifying the indicators of cotton production, Rashidov and his patrons at the very top of the Soviet political elite, including Brezhnev’s son-in-law, managed to extract millions of rubles in illegal profits, which contributed to an even more personalized policy, which, in turn, undermined the formal institutions of state power. Rashidov’s successor Inomjon Usmonkhodzhaev headed the KGB investigation, which resulted in more than 30,000 cotton fraud participants repressed to one degree or another. Most of them came from the Jizzakh, Samarkand and Bukhara regions, which formed the backbone of Rashidov’s patronage network. However, in 1988, Usmonkhodzhaev himself was accused of bribing Moscow elites and providing protection, now to the Fergana clan.⁴⁴¹ In October 1988, he was replaced by the party functionary Rafik Nishanov, who spent a significant part of his

⁴⁴⁰ Hale, Henry. 2014. “Patronal politics: Eurasian regime dynamics in comparative perspective”. Cambridge University Press.

⁴⁴¹ Collins, Kathleen. 2006. “Clan Politics and Regime Transition in Central Asia”. Cambridge University Press.

life in Moscow, working in the USSR Ministry of Foreign Affairs and was not known to have clan affiliation. Nishanov was accompanied by several thousand appointees of the central authorities, mainly from the Slavic republics of the USSR, who occupied all significant posts in the republic. This meant that Moscow was effectively imposing direct rule in Uzbekistan. Although it is impossible to unequivocally state that the wave of violence and ethnic cleansing that arose at the same time in the Fergana Valley was a provocation of the local elites, the central authorities nevertheless concluded that the “Slavic landing party” and Moscow’s protégé Rafik Nishanov had failed to delve into the informal rules of the game and to ensure social and political stability in the republic. Nishanov was soon fired, and Moscow resumed the practice of proxy rule, appointing Islam Karimov as the head of the republican party structures. Karimov was nominated by large Uzbek patronage networks as a “compromise figure.”⁴⁴² Islam Karimov was perceived by these rival clans as a “technocrat” with many years of experience in managing the economy of Uzbekistan and not so embedded in any particular clan as to neglect the interests of other clans.

1.1. Uzbekistan during Islam Karimov’s Rule: Building a “Security State”

Uzbekistan, where 93.7% of the population had recently voted to keep the USSR, became independent in September 1991. Independence was not gained through long previous political struggle, but was instead a result of the sudden collapse of the Soviet Union. First Secretary of the Communist Party of Uzbekistan Islam Karimov became the first president of the republic. The principles of patronage rule characteristic of post-Soviet Uzbekistan were not only a legacy of the Soviet and pre-Soviet period. Islam Karimov deliberately used them to consolidate his power.⁴⁴³

Islam Karimov may have started his rule by balancing between equally influential patronage networks and acting as an intermediary between them, but then he gradually reunited the country’s main competing patronage networks, effectively building the “power vertical” that secured his dominance until his sudden death in 2016. The crucial factor in this regard was the 1992 Uzbekistan Constitution, which formally incorporated many Western democratic norms, but in fact, only provided a legal framework for the president’s dominant position in relation to the executive, legislative and judicial branches of government.

Henry Hale calls this institutional structure, resulting from a combination of informal politics and formal constitutional norms, “a patronal presidential system”, where presidential authorities are not only formally enshrined in legal documents, but are in fact based on the extensive informal patron-client relationships that exists in the country.⁴⁴⁴ Or, to be more precise, the system of government that emerged in Uzbekistan under Karimov can be described as “patronal presidentialism in a developing state.”⁴⁴⁵

⁴⁴² Ibid.

⁴⁴³ Ilhamov Alisher. 2007, “Neopatrimonialism, interest groups and patronage networks: the impasses of the governance system in Uzbekistan”. *Central Asian Survey*, 26 1, 65–84.

⁴⁴⁴ Hale, Henry. 2014, “Patronal politics: Eurasian regime dynamics in comparative perspective”. Cambridge University Press.

⁴⁴⁵ For the discussion of “developmentalist state” approach as the main feature of Uzbekistan’s policy under Mirziyoyev’s presidency see: Dadabayev, Timur. 2019 “Developmental State and Foreign Policy in Post-Karimov Uzbekistan”, in Takahashi Inoguchi ed. *The SAGE Handbook of Asian Foreign Policy*, London: SAGE, pp.893–917.

There are studies that show that patronal rule aimed at the gradual transformation of the state can, under certain conditions, be compatible with an investment climate that promotes growth.⁴⁴⁶

Post-Soviet Uzbekistan embarked on the path of democratization and market relations in the absence of numerous state and national attributes necessary for the success of a market economy and a liberal-democratic project; therefore, the country faced the challenge of a one-time “quadruple transition.”⁴⁴⁷ Islam Karimov may not have been another Lee Kuan Yew,⁴⁴⁸ but nevertheless, he still managed to lay the foundations of a viable nation-state in Uzbekistan, where the challenges of democratization and liberalization were accompanied by the problems of state building⁴⁴⁹ and nation building.⁴⁵⁰ Islam Karimov clearly strove to go down in history as the founder of an independent state, and in order to achieve this goal, he consolidated all power through the Presidential Administration, while striving to weaken alternative centers of power, such as the oligarchy or regional elites. In doing so, he relied mainly on the security agencies, since “states rely on violence insofar as they cannot achieve their goals through persuasion and economic incentives.”⁴⁵¹

The long-standing rivalry between two powerful verticals of power — the Communist Party and the State Security Committee (KGB) — which continued in independent Uzbekistan in the 1990s as a struggle between civilian technocrats and the National Security Service, ended in the 2000s with the merger of the administrative and KGB verticals with the Chekist element on the dominant position.

Karimov managed to ensure stability and even some development during the first twenty-five years of Uzbekistan’s independence, but the government security services that he brought to power, acting in accordance with the “power” logic of centralization of powers and his own system of loyalty, ultimately formed a state within a state,⁴⁵² which, by the time of Karimov’s death in 2016, already had a significant impact on the “quality” of the state, and, in particular, led to systematic serious abuses committed by the security forces.

2. Legal and Conceptual Foundations of Security in Uzbekistan

The legal and conceptual foundations of security in Uzbekistan are reflected in five documents: the Constitution of Uzbekistan (1992), the National Security Concept

⁴⁴⁶ Kelsall, Tim. 2012. “Neo-patrimonialism, rent-seeking and development: Going with the grain?”, *New Political Economy* 17 5, 677–682; Jewellord Nem Singh & Jesse Salah Ovidia. (2018). “The theory and practice of building developmental states in the Global South”, *Third World Quarterly*, 39:6, 1033–1055.

⁴⁴⁷ Kuzio, Taras. (2001). “Transition in post-communist states: triple or quadruple?” *Politics* 21 3, 168–177.

⁴⁴⁸ Akimov, Alexander and Kazakevitch, Gennadi. 2020. “30 Years since the Fall of the Berlin Wall. Turns and Twists in Economies, Politics, and Societies in the Post-Communist Countries”. Palgrave Macmillan.

⁴⁴⁹ Andrew F. March. 2003. “State ideology and the legitimation of authoritarianism: The case of post-Soviet Uzbekistan”, *Journal of Political Ideologies*, 8:2, 209–232; Adams, Laura. 2010. “The Spectacular State: Culture and National Identity in Uzbekistan”. Durham: Duke University Press.

⁴⁵⁰ Ünal, Gürhan. 2018. *State-Building Process in Uzbekistan: Many Miles to Go*. 519–537. 10.30798/makuiibf.410992.

⁴⁵¹ Kuran, Timur. 1998. “The Vulnerability of the Arab State: Reflections on the Ayubi Thesis.” *Independent Review*, 3 Summer 1998: 113.

⁴⁵² Laruelle, Marlene. 2012. “Discussing neopatrimonialism and patronal presidentialism in the Central Asian context”. *Demokratizatsiya* 20 4, 318.

(1997), the Foreign Policy Concept (2012), the Defence Doctrine (2018, formerly the Military Doctrine of 1995) and the Development Strategy for 2017-2021.⁴⁵³

The constitution clearly defines Uzbekistan as a presidential republic and grants the president broad powers in the area of defence and security. The president nominates the prime minister for consideration and approval by the chambers of Parliament. All the other government members are approved by the president following the nomination submitted by the prime minister following the approval of the Legislative House. The president directly appoints the chairman of the State Security Service and the prosecutor general, nominates candidates for the Constitutional Court, the Supreme Court, as well as for the positions of the chairman of the High Judicial Council. The president is the Commander-in-Chief of the Armed Forces of Uzbekistan and is responsible for defence and foreign policy. He declares a state of war and also imposes a state of emergency. Uzbek legislation does not provide for an impeachment procedure.

The change of power in 2016 led to a revision of the security concept. As part of efforts to adapt to evolving security threats, both the National Security Concept and the Foreign Policy Concept (FPC)⁴⁵⁴ were supposed to be updated in 2018, but as of April 2020, these documents are still in development. Although these strategic documents are significantly outdated and not classified, they are still not available to the public. With FPC, only a section containing the three main foreign policy prohibitions was published. First, it was prohibited to join military alliances. Second, the deployment of foreign military bases on the territory of Uzbekistan was prohibited. Third, participation in peacekeeping or any other military operations outside the borders of Uzbekistan was prohibited. In addition, the FPC declared Central Asia a priority area of Uzbekistan's diplomacy.

As part of the revision of the National Security Concept, the Information Security Concept⁴⁵⁵ is also being developed. Content analysis of the speeches of Shavkat Mirziyoyev and other high-ranking officials suggests that the main focus of the updated strategic documents is aimed at countering the threat of violent extremism and encroachments on changing the constitutional order, social cohesion and stability, as well as regional cooperation in the field of security.

The former Military Doctrine of Uzbekistan was revised and fully published (for the first time) in early 2018 as Defence Doctrine. The doctrine expresses concern about terrorism and the potential impact of regional conflicts, including the conflict in Afghanistan. The document outlines plans to create a compact army and modernize the armed forces, including plans to re-equip the army with modern weapons and equipment, to develop the defence industry, and to reorganize the armed forces. The doctrine also focuses on emergency prevention, border security and hybrid warfare.

⁴⁵³ The State Program For Implementation Of The National Action Strategy On Five Priority Development Areas 2017–2021. Доступно по адресу: <https://strategy.uz/index.php?static=programma>.

⁴⁵⁴ Tashkent Times. 19 January 2018. New version of Uzbekistan's National Security Concept being prepared. Доступно по адресу: <http://tashkenttimes.uz/national/1955-new-version-of-uzbekistan-s-national-security-concept-being-prepared>.

⁴⁵⁵ Uzbek Information Agency. 31 January 2018. Information security concept is being developed in Uzbekistan. Доступно по адресу: <http://uza.uz/en/tech/information-security-concept-is-being-developed-in-uzbekis-ta-31-01-2018>.

The development strategy for 2017–2021 is notable for the fact that for the first time, it takes into account political, social and economic problems alongside traditional threats within the security issues. For example, poverty, unemployment, an inefficient agricultural sector, imbalances in development, lack of cross-border cooperation, environmental problems, criminalization of society and the growth of drug trafficking are cited as potential threats to security. In addition, the strategy states that regional cooperation in Central Asia is another important aspect of ensuring national security.

3. Security Agencies under Islam Karimov

In the Uzbek SSR, the main security agencies were the Ministry of Defence, the Ministry of Internal Affairs and the KGB, staffed mainly by “Europeans”, i.e. officers originating from the Slavic USSR republics. After a short period of institutional experimentation (for example, the Border Guard and the National Guard were independent agencies in the early 1990s), this same structure was practically recreated in post-Soviet Uzbekistan. The three security agencies, consisting of the Ministry of Defence (MoD), the Ministry of Internal Affairs (MIA), and the National Security Service (renamed into the State Security Service in 2018), were the backbone of the security architecture during Islam Karimov’s entire rule. At the same time, the cohesion and unity of these departments are questionable due to the constant interagency struggle over the distribution of budget resources and personal competition within and between these security agencies.

The Ministry of Defence (MoD), dates back to the early days of the Soviet Union. The Red Army, which consisted mainly of Russian settlers, was the main instrument for consolidating the power of the Bolsheviks and Sovietizing Central Asia between the 1920s and the 1930s.⁴⁵⁶ The general mobilization that followed the invasion of the Soviet Union by Nazi Germany in 1941 drew Uzbek men en masse into the ranks of the armed forces and contributed greatly to their socialization as Soviet citizens. The Ministry of Defence of independent Uzbekistan was formed on the basis of the Turkestan Military District, created in Central Asia in 1918, and exercises leadership of the Armed Forces of Uzbekistan. The Ministry of Defence is entrusted with the task of providing protection against external threats. The collapse of the Soviet Union and the dramatically different political and strategic environment significantly influenced the transformation of Uzbekistan’s armed forces. A number of problems arose, to which the Armed Forces, trained to operate in completely different conditions, could not adequately respond. Geostrategic and social changes, as well as “new dimensions of security,” such as transnational organized crime, terrorism, irregular militias and drug trafficking, have called into question the need for a large army. As a result of structural changes in the Armed Forces, a compact professional army was created, and individual units were re-equipped and retrained to adequately respond to new challenges.

In full accordance with the argument that the chance of successful reform is higher for agencies with a narrow technical function or those relatively isolated from society, such as the Central Bank or the Armed Forces,⁴⁵⁷ several stages of reforms have

⁴⁵⁶ Khalid, Adeb. 2015. “Making Uzbekistan. Nation, Empire, and Revolution in the Early USSR”. Cornell University Press.

⁴⁵⁷ Peter B. Evans. 1995. “Embedded Autonomy: States and Industrial Transformation”. Princeton University Press.

made the Uzbek army a modern and professional force. Five military districts were created; the commanders of these districts are the leaders of all the armed forces in their district, not only during the war, but also in peacetime. The joint headquarters of the Armed Forces replaced the Soviet-type General Staff (but after Mirziyoyev came to power in 2018, this headquarters was again renamed the General Staff), and its functions were revised. Now it has become a single command agency for the development and implementation of decisions in the field of armed protection of the country's sovereignty and territorial integrity. The General Staff also carries out operational and strategic planning, while the MoD is responsible for the administration of the military. The mass conscription system is gradually changing to a contract model. The regular army was reduced in size, while the border troops were reinforced.

Uzbekistan has achieved the greatest success among the Central Asian countries in reforming the armed forces, which are currently rated as the most combat-ready in the region.⁴⁵⁸ In the global index of military power Global Firepower, the Armed Forces of Uzbekistan have been ranked third among post-Soviet countries in the recent years in terms of military power following Russia (2nd out of 128 countries of the world) and Ukraine (29) and ranking first among the countries of Central Asia.⁴⁵⁹

The armament of the Uzbek army consists mainly of equipment from the Soviet era. A significant military air fleet was inherited from the Soviet army, but this obsolete aviation is gradually being replaced by new-generation aeroplanes and helicopters, mainly produced in Russia. In order to update obsolete equipment, the State Defence Industry Committee was established in 2017.

To join law enforcement agencies and special services, you need to serve in the military. This requirement, as well as extensive social benefits for the military, such as affordable housing and quotas for admission to college, have led to an increased prestige of military service. Unlike the armed forces of many countries in Asia and Africa, the army of Uzbekistan has not yet been known to interfere in political processes. The reasons for this unconditional subordination to civilian leadership have deep historical roots: the Armed Forces inherited the tradition of submission to civilian control from the Soviet army.⁴⁶⁰ The Armed Forces of Uzbekistan played no role in gaining national independence; nor did they participate in or win any other full-scale conflict that would raise the army's self-awareness. The non-interference of the army in politics is also a consequence of the purposeful policy of Islam Karimov, who kept the army isolated from the political realm (in comparison with the National Security Service or the Ministry of Internal Affairs) and limited its influence through frequent changes in military leadership. For example, only 2 out of 8 defence ministers of post-Soviet Uzbekistan were career soldiers, while all other ministers came from the Ministry of Internal Affairs or special services. At the same time, in terms of civil-military relations, civilian control over the military is weak due to the small number of civilian personnel in the

⁴⁵⁸ Roger N. McDermott & Farkhad Tolipov. (27 August 2003). "Military reform in Uzbekistan: defining the priorities". Доступно по адресу: <https://www.cacianalyst.org/publications/analytical-articles/item/8318-analytical-articles-caci-analyst-2003-8-27-art-8318.html>.

⁴⁵⁹ Global Firepower. Uzbekistan Military Strength 2020. Доступно по адресу: https://www.globalfirepower.com/country-military-strength-detail.asp?country_id=uzbekistan.

⁴⁶⁰ Brian D. Taylor. 2003. "Politics and the Russian Army. Civil-Military Relations, 1689-2000". Cambridge University Press.

MoD. The Ministry of Defence has no tradition of civilian leadership. The only civilian minister of defence in the entire recent history of Uzbekistan, the son of a famous Uzbek writer who was also a famous physicist, Kadyr Gulyamov was appointed head of the Ministry during his honeymoon phase in the relations with the United States in 2000 and was quickly dismissed when the military reforms he initiated created a danger strengthening the independence of the officer corps.⁴⁶¹

In general, the army, which was one of the pillars of the regime, received less attention under Karimov than the law enforcement agencies or special services. Nevertheless, as part of the global war on terror, well-equipped and trained elite counter-terrorism units, noticeably different from regular army units, emerged in the ranks of the Uzbek Armed Forces. The high-ranking commanders of these elite units are part of a broader cohort of security officials in key positions in the Presidential Administration and other security-related agencies. The head of the Security Council (SC) under the President of Uzbekistan is traditionally appointed from the military. The current Secretary of the Security Council is Viktor Makhmudov, a career officer of the Ministry of Defence. Before him, this post was held by Bakhodir Tashmatov, a former deputy defence minister who now leads the National Guard.

The Ministry of Internal Affairs is the institutional successor to the Soviet Ministry of Internal Affairs and has not undergone significant organizational changes since independence. This ministry can best be described as a hybrid, as it has both a law enforcement component and a paramilitary one. The range of tasks performed by the numerous departments of the Ministry of Internal Affairs is vast. Its law enforcement element is the internal affairs agencies (the so-called militia until the 2017 reforms), which are involved in combating crime and other “traditional” police functions, including road safety. Geographically, the police mainly consists of two main departments of internal affairs (GUVD) of the capital and the capital region, departments of internal affairs (UVD) and regional departments of internal affairs (ROVD). In the Uzbek police model, the main burden of crime prevention rests with “district police officers” who not only work in the field, but also live in state-designated housing in the area for which they are responsible. In the prevention of crime, the inspectors are assisted by volunteers from the Mahalla posboni organization (Mahalla helpers), which is mainly formed of young people trying to get a job with the internal affairs bodies.

The Ministry of Internal Affairs also has several special departments and directorates, such as the Anti-Terrorism and Extremism Directorate, the Investigative Department, the Tourist Police or the Transportation Security Directorate. The Main Penitentiary Directorate under the Ministry of Internal Affairs carries out the functions of control and supervision in the field of the execution of criminal sentences in relation to convicts, suspects, and accused of committing crimes.

Much like the AF units of the MoD, following the outbreak of the global war on terror in September 2001, the MIA troops have gradually transformed from a poorly trained and poorly paid police force to mobile elite counter-terrorism units. Currently, the Ministry of Internal Affairs has several special-purpose units at its disposal, such as mobile

⁴⁶¹ Forster, Peter. 2007. “International Factors Stopping Security Sector Reform: The Uzbek Case”. The China and Eurasia Forum Quarterly. Military Institutions. Volume 5, No. 1.

rapid reaction units (MOON in Uzbek). Sentry troops under the Ministry of Internal Affairs are a military formation of 20-30 thousand soldiers and are designed to perform special assignments. These troops are also responsible for guarding the penitentiary institutions. In 2017, the Interior Ministry regained control over the Internal Troops, which were transferred to the NSS after the Andijan events of 2005. These elite troops of about 20,000 constitute a parallel “army” and play a key role in Uzbekistan’s security architecture. These troops are trained, among other things, to take action during riots. Among the units that were transferred from the NSS to the Ministry of Internal Affairs by order of the president are such elite formations as Alpha (Альфа), Jaguar (Ягуар), Burgut (Бургут), Lochin (Лочин), Chayon (Чаён), Cobra (Кобра) and TS Unit (Ц).⁴⁶² But the triumph of the Ministry of Internal Affairs was fleeting. Internal troops were again withdrawn from the Ministry of Internal Affairs and transferred to a rival agency, this time the newly created National Guard. In 2019, the Ministry of Internal Affairs lost another militarized formation — the Main Guard Directorate, which guards especially important and classified facilities, which was also transferred to the National Guard.

The State Security Service of Uzbekistan (better known as the NSS) does not have the status of a ministry, unlike the MoD; yet, it was the most influential law enforcement agency and the main beneficiary of the security system until 2016. The head of the State Security Service is the chairman, and the service itself is directly subordinate only to the President of Uzbekistan. The State Security Service is authorized to conduct preliminary investigation and inquiry, operational, intelligence and counter-intelligence activities. In 1996, the units and some functions of operational intelligence, which were previously performed by the GRU of the Ministry of Defence, were transferred to the State Security Service. In 2004, the State Border Protection Committee was returned to the State Security Service; now it is headed by the deputy chair of the State Security Service. Another deputy chairperson headed the presidential security service until it was transformed into a separate department in 2019. The State Security Service has its own military units, although in 2017-2018, most of them were transferred first under the Ministry of Internal Affairs purview, and then to the National Guard. Given the closed nature of this department (the State Security Service does not even have a website), its exact structure remains unknown.

During Islam Karimov’s reign, the broad powers granted to the Security Service in the sector of preliminary investigation and inquiry, operational intelligence, as well as intelligence and counter-intelligence, border security and safety of the president, turned this super-agency into the main pillar of Karimov’s regime. The State Security Service, headed for 23 years (until 2018) by Rustam Inoyatov⁴⁶³ gradually became a kind of “state within a state.” State Security Service representatives dominated the executive, legislative and judicial branches. They worked in the prosecutor’s office, controlled the media and mosques, as well as all lucrative financial and economic resources obtained from export and import, banking operations, and mining.

⁴⁶² Radio Ozodlik. 05 February 2018. Иноятлов кетиши ортидан МХХ сара қуролли бўлинмаларидан айрилмоқда. Доступно по адресу: <https://www.ozodlik.org/a/mxx-inoyatov-shuhrat-gulomov-burgut-lochin-kobra-alfa/29019553.html>.

⁴⁶³ Open Source Investigations. “Rustam Inoyatov: The Most Feared Man in Uzbekistan”. Доступно по адресу: <https://www.opensourceinvestigations.com/uzbekistan/rustam-inoyatov-feared-man-uzbekistan/>.

4. Security Apparatus under Shavkat Mirziyoyev

The National Guard of Uzbekistan (NG) was formed in 1992 as part of the Armed Forces. Until 2017, it was a little-known battalion of 1000 people under the Ministry of Defence, which was engaged in the protection of strategic objects and important persons. In 2017, President Shavkat Mirziyoyev singled out the National Guard as a separate independent agency. According to official statements, the main reason for the creation of the new security agency was to reinforce the anti-terrorism capacity, but in reality, this may have been mainly due to intra-elite competition and the potentially intensifying protest moods in society. The fact that the nucleus of the new National Guard was formed based on the MIA troops, trained to quell riots and social protests, confirms these assumptions. The power of the NG considerably increased in 2019, when another large militarized unit of the Ministry of Internal Affairs, the Main Directorate of Security, responsible for the security of state-owned objects (and private ones, for a fee), was transferred to the National Guard. While retaining the function of protecting strategic and vital facilities, the National Guard now also maintains public order and security and participates “in the prevention of acts of terrorism and extremism”. The National Guard has the power to conduct pre-trial investigations and detain persons suspected of committing a crime.

The President’s State Security Service is the most clandestine secret service responsible for protecting the country’s leadership, their family members, as well as important foreign guests. Prior to its creation in September 2019, the President’s State Security Service was part of the State Security Service and was headed by the deputy chair of the State Security Service. The Service has the authority to conduct pre-trial investigations. As a prevention measure, it can keep records of persons “prone to offences affecting the interests of protected persons,” although the meaning of this characteristic is rather unclear.

The prosecutor’s office, or the Prosecutor General’s Office (PGO), despite the absence of its own armed units, has become another key power player. The PGO, along with the State Security Service, was one of the biggest beneficiaries of the security system under Islam Karimov. Under Mirziyoyev, its status has barely changed. Moreover, the prosecution reform, initiated in 2017 by Mirziyoyev, who called prosecutors “the biggest thieves” and “old rubbish [...] left from the previous system,”⁴⁶⁴ only consolidated their power and raised the status of the PGO. As a result, it was the former Prosecutor General Ikhtiyor Abdullaev who replaced Rustam Inoyatov as head of the State Security Service in 2018 and headed it for a year, until he fell into disgrace for reasons unknown to the public.

According to the Constitution, the prosecution bodies, headed by the Prosecutor General, exercise their powers independently of any state agencies. They do not belong to either the executive or the judiciary branch, combining the functions of both. The prosecutor’s office has broad powers of law enforcement agencies: from criminal prosecution to overseeing the implementation of laws by state agencies. It supervises 11,000 employees of the bailiff service (Bureau of Compulsory Enforcement or MIB

⁴⁶⁴ Radio Free Europe, 04 August 2017. “Uzbek President: Prosecutors Are The Biggest Thieves”. Доступно по адресу: <https://www.rferl.org/a/uzbekistan-president-prosecutors/28659311.html>.

in Uzbek), which was transferred to the Prosecutor General's Office from the Ministry of Justice in 2017. The MIB enforces execution of judgments and orders, including decisions in civil matters such as non-payment of alimony, and monitors the timely payment of utility bills, waste collection, electricity or natural gas. Since 2017, the prosecutor's office also acts as the main body for the fight against corruption, being part of the working group of the interdepartmental commission on combating corruption, which is headed by the chair of the Senate.

The law "On the Prosecutor's Office" states that the Prosecutor's Office coordinates activities to combat crime, but its capabilities are limited by interagency competition among the security agencies. Given the broad constitutional powers of the PGO, both the President and the executive branch, or rather the State Security Service, have always tried to control the prosecutor's office. Rashid Kadyrov, who ran the Prosecutor General's Office from 1993 to 2015, first as deputy prosecutor general and then prosecutor general, was an officer of the current Security Service reserve. Already being the prosecutor general, Rashidov received the Security Service award for "faithful service in the ranks of the State Security Service."⁴⁶⁵

Now the Prosecutor General's Office is headed by the president's confidant, former Senate Speaker Nigmatilla Yuldashev, who ceded to Mirziyoyev, then prime minister, his "constitutional right" to govern the country after the sudden death of Islam Karimov.

Other Security Actors Formed under Shavkat Mirziyoyev

In February 2020, the Ministry for the Support of Mahalla and Family was established, whose main task was to "assist in the full and effective implementation of the principle of 'comfortable and safe mahalla' in society, establish close cooperation with citizens' self-government bodies to improve the social and spiritual atmosphere in families and mahallas."⁴⁶⁶

Mahalla is a self-governing body, that oversees the local community. The deputy minister of internal affairs for Public Order is also the deputy head of this new department, whose organizational structure is replicated down to the district level. It employs mostly former law enforcement officers rather than social workers.⁴⁶⁷

Another important institution is the Committee on Religious Affairs under the Cabinet of Ministers (CRA), the supreme body responsible for religious policy in Uzbekistan. The Security Service was named the main coordinator in the sphere of religion; the natives of this structure control both the CRA and the Spiritual Administration of Muslims of Uzbekistan. For example, the head of the Security Service directorate in the Surkhandarya region was appointed chairman of the CRA in 2019.

⁴⁶⁵ Daryo.uz. 26 February 2020. "Beshtasidan uchtasi jinoyatchi. O'zbekistonning sobiq bosh prokurorlari haqida". Доступно по адресу: <https://daryo.uz/2020/02/26/beshtasidan-uchtasi-jinoyatchi-ozbekistonning-sobiq-bosh-prokurorlari-haqida/>.

⁴⁶⁶ Uzdaily. 19 February 2020. "Mahalla and Family Support Ministry established in Uzbekistan". Доступно по адресу: <https://www.uzdaily.com/en/post/54895>.

⁴⁶⁷ Tashkent Times. 19 February 2020. "Botir Parpiev named Deputy Minister of Mahalla and Family Affairs". Доступно по адресу: <https://tashkenttimes.uz/national/4998-botir-parpiev-named-deputy-minister-of-mahalla-and-family-affairs>.

5. Legislative and Judicial Systems

Since 1991, Uzbekistan has taken significant steps to develop the legal and judicial system as part of state-building and market economy efforts. Constitutional and administrative justice was introduced in addition to the courts of general jurisdiction inherited from the USSR. Nowadays, the judicial branch includes the Constitutional Court, the Supreme Court, military courts, regional and district civil and criminal courts, and administrative courts. The Constitutional Court hears cases related to the constitutionality of laws and decisions adopted by the legislative and executive branches. But only state agencies and not ordinary citizens can submit cases to be heard by the Court. During the entire period of Karimov's rule, the Constitutional Court heard only four cases.

The existing legal and judicial systems were mainly formed over 2005-2016.⁴⁶⁸ After criticizing the “old rubbish,” incumbent President Shavkat Mirziyoyev initiated a new wave of reforms in October 2016. To streamline the administration of justice, the High Economic Court was merged with the Supreme Court. The Supreme Court became the highest court exercising civil, criminal and administrative justice. The military division of the Supreme Court was abolished (while the military courts were retained), and administrative courts and the Judicial Division for Administrative Cases of the Supreme Court were created to handle cases related to the sphere of public administration.

The Supreme Judicial Council was formed to enhance the professionalism of judges and ensure the independence of the judiciary. The authority to appoint judges was transferred from the President to the Council. But the chairman of the council and his deputies are appointed by the President. A life term of office of judges has been introduced: the first term is 5 years, the next reappointment is 10 years and the third term is lifetime.

Other notable reforms include the creation of the institution of the Human Rights Commissioner (ombudsman) in 1995 and the introduction of the Business ombudsman position in 2019. In 2005, the “Habeas Corpus” procedure was introduced and the death penalty was abolished. In 2014, Uzbekistan adopted a National Action Plan on Human Rights, and in 2020 it is expected to adopt a Strategy on Human Rights aimed at strengthening the rule of law. Uzbekistan is a party to over 70 international human rights treaties, including 6 of the 9 main UN conventions on human rights. Arbitration courts exist, but they are not part of the judicial system. In 2019, to improve the investment climate, the Tashkent International Arbitration Centre was established at the Chamber of Commerce and Industry of Uzbekistan.

Despite these policy directives and reform initiatives, the judiciary has not become noticeably less corrupt or impartial. Law enforcement agencies, especially the State Security Service and the Prosecutor's Office, oversees the courts, with judges appointed mainly from among former investigators and prosecutors. As a result, a strong accusatory bias prevails in criminal justice. Over the period 2012–2016, the probabilit-

⁴⁶⁸ Sever, Mjusa. 2018. “Judicial and Governance Reform in Uzbekistan”, Silk Road Paper published by the Central Asia-Caucasus Institute and Silk Road Studies Program, Joint Centre.

ity of acquittal was just slightly above 0% (only 7 acquittals).⁴⁶⁹ Under Mirziyoyev, that figure rose to 2.1% (576 out of 26,859), according to a 2019 Supreme Court report.⁴⁷⁰

In April 2020, the UN Human Rights Committee expressed concern about the persistent “torture and ill-treatment of the imprisoned, as well as the apparent restrictions of freedom of conscience and religious views, freedom of expression, associations and peaceful assembly” in its first assessment of the human rights situation in Uzbekistan during Shavkat Mirziyoyev’s presidency.⁴⁷¹ The committee’s findings reflect the public opinion that many of the promised reforms have not yet been implemented.

Despite the clear hierarchy of laws and regulations, the highest of which is the Constitution, there is a tendency to issue by-laws that define the true meaning of laws and sometimes deviate from the original purpose of the law. This is partly due to the lack of legal expertise among lawmakers. The executive branch, which submits most of the bills to Parliament, also leaves deliberate gaps in bills to retain the power to apply the law as they see fit. Even if laws appear to be well-developed, strong political will is needed to ensure their consistent and impartial application.

The 2019 report of the OECD Anti-Corruption Network for Eastern Europe and Central Asia expresses concern that without a “systematic approach” the anti-corruption law (the very first legal initiative of President Shavkat Mirziyoyev, which came into force in January 2017) risks becoming declarative.⁴⁷²

Indeed, the latest Corruption Perceptions Index 2019, compiled by Transparency International, shows little improvement in the fight against corruption.⁴⁷³

Compared to other areas, Uzbekistan has taken significant steps to improve its legislation and courts. On the other hand, these changes have not yet yielded a society in which formal legal and judicial institutions would prevail over informal ones.

6. Institutional Oversight of the Security Sector

Given that the president is fully responsible for the implementation of security policy, the most important Uzbek state agency among those dealing with ensuring security and overseeing the security sector is an institutional body that is not even mentioned in the Constitution – the Presidential Administration (PO). This institution can rightfully be described as a shadow government, the nucleus of Uzbek politics. The heads of its nine departments are called “advisers to the President”. During the Karimov era, advisers were the most influential government officials with their own patronage system; in fact, they ruled the country with unrestricted access to, and strong influence

⁴⁶⁹ Concept of the Development Strategy of the Republic of Uzbekistan until 2035. Доступно по адресу: <https://uzbekistan2035.uz/uzbekistan-2035/>.

⁴⁷⁰ The Supreme Court 31 October 2019. Результаты — В Реальных Показателях. Доступно по адресу: <http://sud.uz/ru/31-10-2019-111-11/>.

⁴⁷¹ OHCHR 02 April 2020. “UN Human Rights Committee publishes findings on Central African Republic, Portugal, Tunisia, Uzbekistan and Dominica”. Доступно по адресу: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25766>.

⁴⁷² OECD. Anti-corruption reforms in Uzbekistan. 4th round of monitoring of the Istanbul Anti-Corruption Action Plan. Доступно по адресу: https://www.oecd.org/corruption/acn/OECD-ACN-Uzbekistan-4th-Round_Monitoring-Report-2019-ENG.pdf.

⁴⁷³ Transparency International. 2019. The Corruption Perceptions Index 2019. Доступно по адресу: <https://www.transparency.org/cpi2019>.

over, the president. The current head of the Presidential Administration is Mirziyoyev's longtime personal assistant Zainilobiddin Nizomiddinov.

The Service for Legal Support of Reforms and Coordination of Law Enforcement Activities, which oversees the security forces, and the Organizational and Personnel Service, which makes decisions on almost any politically or economically significant appointments and promotions, including in the security agencies, are the most important units of the Presidential Administration. These services are headed and largely staffed by security officials, usually from the State Security Service, the Ministry of Internal Affairs or the prosecutor's office. This gives the security officials additional leverage when it comes to domestic politics.

The Presidential Administration also includes the Security Council, an advisory body that is the Centre of security decision-making and agenda-setting, and the Institute for Strategic and Interregional Studies, which conducts research in strategic policy areas.

Apart from the Presidential Administration, the three most important bodies overseeing the security agencies are the Parliament, the Accounts Chamber and the General Directorate of State Financial Control of the Ministry of Finance.

The first Parliament of Uzbekistan, the Supreme Council (1990–94), had a relative level of influence in political life that its successor, the Oliy Majlis, never had. The efforts of Islam Karimov to create a unified power pyramid in the 1990s limited the independence of the legislature and turned the Oliy Majlis into an appendage of the executive branch.⁴⁷⁴ Karimov controlled the Parliament mainly by depriving the legislature of the necessary human and financial resources that it would need to fully function, as well as through control over political parties, including the pre-selection of candidates running for Parliament.⁴⁷⁵ Since the law does not allow non-party self-nominated candidates to be elected to Parliament, the passage of candidates through the preliminary sieve of the Presidential Administration is a fairly effective tool for establishing control over Parliament.

In a series of “multi-phase political reforms” launched by Karimov in 2010, Parliament's authority has been significantly expanded. As a result, in 2011, the balance of power between Parliament and the executive branch shifted slightly towards the former, when the majority parties in Parliament were given the right to nominate a candidate for prime minister (who would then be approved by the president). Previously, the prime minister was appointed by the president. This trend towards the transfer of some powers continued in 2014, when the Oliy Majlis was given more authority to exercise Parliamentary oversight of the executive branch. The Parliamentary Control Act was passed in 2016. In 2019, the Parliament received additional authority to approve candidates nominated by the prime minister for ministerial posts (including law enforcement agencies such as the Ministry of Defence and the Ministry of Internal Affairs). Subsequently, the President approves them in office.

⁴⁷⁴ Starr, Frederick. 2006. “Clans, Authoritarian Rulers, and Parliaments in Central Asia”. Silk Road Paper produced by the Central Asia-Caucasus Institute & Silk Road Studies Program.

⁴⁷⁵ This is an observation from the author's professional activity and based on the results of conversations with potential candidates for Oliy Majlis.

In general, the Uzbek Parliament has all the constitutional means of effective Parliamentary control over the security sector,⁴⁷⁶ such as accountability of members of the Cabinet of Ministers to Parliament, approval of their candidatures before appointment, the right to amend the draft law on the state budget or the right to reject draft laws, as well as mandates of the MPs clearly enshrined in the legislation. However, the Presidential Administration's practice of pre-selecting candidates running for Parliament leads to elections that "do not demonstrate genuine competition,"⁴⁷⁷ and pre-selected MPs clearly lack the capacity and political will to oversee the security sector. Thus, in the last years of the previous composition of the Legislative Chamber, only 108 Parliamentarians worked in the Parliament, since the remaining 42 members were appointed to various mid-level positions in the executive branch.⁴⁷⁸ Although MPs have the right to access information held by the security forces. The institutional capacity and Parliament's potential to conduct independent oversight have improved somewhat since the establishment of the Institute for Legislative Problems and Parliamentary Research in 2018 — a separate body with 40 members — but they are still insufficient. Oliy Majlis' Senate and the Legislative Chamber have established defence and security committees that oversee the security sector. In general, the powers of these security sector oversight committees and relevant government agencies do not exceed the (formal) authority of Parliament.

The Accounts Chamber is the supreme body for external audit and financial control. It separated from the Presidential Administration and became an independent audit body as recently as 2020. Although the chair of the Accounts Chamber is appointed by the president after approval by the Senate, all other senior officials, from the vice chairs to rank-and-file inspectors, are appointed by the president. Additional staff are appointed by the head of the Presidential Administration.

The General Directorate of State Financial Control (GDSFC) is a structural unit of the Ministry of Finance. The GDSFC has the right to temporarily or completely suspend public procurement tenders and initiate financial audits of budgetary bodies.

Although both of these institutions are responsible for overseeing and ensuring accountability of the security sector for the use and management of public resources, they rarely exercise their authority due to the lack of effective independence from the president or the executive branch, in particular the State Security Service. The latest example of the use of the GDSFC as a political tool is the investigation into the alleged misappropriation of \$8.5 million by head of the Tax Committee Boris Parpiev, a close relative of the former head of the State Security Service Rustam Inoyatov, who was dismissed two weeks before the start of the audit.⁴⁷⁹

⁴⁷⁶ Aida Alymbaeva, Rustam Burnashev, Grazvydas Jasutis, Parviz Mullojanov, Richard Steyne, Farkhod Tolipov, Parliamentary Oversight of the Security Sector: Case Studies from Central Asia Bishkek, Kyrgyzstan: DCAF, 2020.

⁴⁷⁷ Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, 22 december 2019, "Statement of preliminary findings and conclusions, OSCE International Election Observation mission, Republic of Uzbekistan – Parliamentary elections".

⁴⁷⁸ Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, 22 december 2019, "Statement of preliminary findings and conclusions, OSCE International Election Observation mission, Republic of Uzbekistan – Parliamentary elections".

⁴⁷⁹ Radio Free Europe. 13 February 2018. "Uzbek Tax, Customs Agencies Raided In 'Major Investigation', Доступно по адресу: <https://www.rferl.org/a/uzbekistan-crackdown-tax-customs-committeees/29037345.html> В узбекской версии статьи ясно указывается что УГФК инициировало расследование.

7. Civil Society and Media

Civil society: Islam Karimov's aspiration for the state (that is, the bureaucracy) to be the main reformer led to the restriction of freedom of association, assembly, expression and the media, and did not allow for the emergence of alternative views on development. The interaction between the state and the public was top-down and monodirectional. Non-governmental organizations and other public groups have been and remain obliged to assist the state in achieving the goals set by the President. The public sphere of Uzbekistan, which is characterized by the dominance of GONGOs, can best be described as a "governed civil society". Given the private and political nature of the security agencies, there are almost no NGOs working in the sector of security reforms. The few civic organizations and activists who find the courage to work in areas such as human rights are under constant scrutiny and pressure. Therefore, civil society has been virtually non-existent in the security sector reforms initiated by Mirziyoyev, and the reform initiatives themselves lack broad support. In 2020, the government established the Public Chamber (Jamoatchilik palatasi) for closer interaction between society and government bodies.

At the same time, an (alternative) public sphere, not necessarily with a secular world view, is beginning to form in the country. The number of religious charities and activists is growing. Although the government has subdued some of them under the threat of prohibition, the government's ability to keep this area under control in the future remains uncertain.

Media: Under Islam Karimov, Uzbekistan was one of the least favourable places for media work in the world. However, in the later stages of his reign, people began to openly express dissatisfaction with the socio-political and economic situation and anxiety related to physical security on the Internet. During the temporary thaw after Karimov's death, the Uzbek virtual space exploded. Access to previously blocked foreign media sites covering events in the country was granted, including the BBC Uzbek Service and VOA.

There are occasional live television broadcasts, and some online media cover sensitive topics such as police abuse, corruption, and forced labour. However, there are no investigations into security forces or high-ranking officials. Print publications continue to depend on government funding, with the rare exception of the tabloids. In April 2020, the Ministry of Internal Affairs developed a document aimed at creating and funding "patriotic bloggers" whose task will be to track down "negative ideas about ongoing reforms" and "create an atmosphere of intolerance" to such ideas.⁴⁸⁰

In general, positive changes in the media space under Mirziyoyev were insignificant. Uzbekistan has retained its low position in the World Freedom 2020 ranking — it is just four steps higher than the position the country held for many years under Karimov.⁴⁸¹

⁴⁸⁰ ACCA. 15 April 2020. "In Uzbekistan, The Ministry of Internal Affairs will hire "patriotic bloggers". Доступно по адресу: <https://acca.media/en/in-uzbekistan-ministry-of-internal-affairs-will-hire-patriotic-bloggers/>.

⁴⁸¹ Reporters Without Borders RSF. The 2020 World Press Freedom Index, Доступно по адресу: <https://rsf.org/en/ranking>.

Public attitudes towards the security sector: Opinion polls on sensitive topics in Uzbekistan are unreliable. The only organization assigned with conducting polls, the state sociological organization Ijtimoiy Fikr, is known for its “99%” positive indicators. But the massive flow of appeals to the president’s “virtual reception room” in the first year of his rule, when expectations from the current head of the country were still high, indicates a high level of mistrust in the police, especially in the judicial system. In just a year, from September 2016 to October 2017, 1,273,337 complaints were received by the President’s “virtual reception room.” The highest number of complaints were against the actions of the police and the Ministry of Internal Affairs (100,770), the administration of the city of Tashkent (76,559), the Supreme Court (63,357), the General Prosecutor’s Office (57,286) and the Central Bank (53,180).⁴⁸²

These figures reflect the widespread belief that the rule of law exists only on paper, corruption is rampant, and security forces are exploited for personal interests. In general, public perceptions and attitudes towards the security sector range from respect for the military to fear of the State Security Service and the police. At the same time, the security forces and the judiciary are among the most coveted jobs due to the extensive social benefits, stability and opportunities for enrichment.

Conclusion: Security Sector Reform in a State with a Patronal Presidential System

Uzbekistan is a patronal state with a strong presidential power, with this feature also reproduced within its security agencies. Therefore, “social embeddedness” of politics is key to understanding the prospects for security sector reform.

The most important question here is how to strengthen the “rational and bureaucratic” principles of the development state in order to overcome the patronalism and primacy of informal politics over rational and legal bureaucratic practices. Considering the security sector reform strategies, it is necessary to take into account the protection of property rights, the creation of an internal control mechanism in the security agencies and many other traditional tasks of the reform, but the main challenge lies in overcoming the patronalism and patronage policies that limit the reform. This may take generations, and the will to do so must arise primarily within the society, although external influences can also play an important role.

Political Thinking to Be Considered in Security Reform Attempts

- The political scientist, Henry Hale, argues that in a patrimonial society, a “constitution with divided executive power,” as opposed to a presidential or parliamentary constitution, is most conducive to democratization (and hence security sector reform), since the creation of a “competitive pyramid” and its preservation for a sufficiently long period can provide incentives for the gradual reduction of patronalism.⁴⁸³ Authoritarian leaders can be sold on the idea of constitutional

⁴⁸² Sever, Mjusa. 2018. “Judicial and Governance Reform in Uzbekistan”, Silk Road Paper, Central Asia-Caucasus Institute and Silk Road Studies Program, Joint Centre.

⁴⁸³ Hale, Henry. 2014, “Patronal politics: Eurasian regime dynamics in comparative perspective”. Cambridge University Press.

change through the use of the right incentives. Security sector reform practitioners should seriously consider this.

- It can be counterproductive for international development aid donors to act as “good guys versus bad guys” when it comes to security sector reform. Such a mentality has significantly hampered security sector reform efforts and the formation of civil society in Uzbekistan. The quarrel with the West led to closer relations with Russia and China, on whose recommendations (insistence) the only civilian defence minister in the country’s history, Kadyr Gulyamov, who was the most effective reformer of the armed forces, was quickly fired and his reform initiatives stalled. As a result of the attack on civil society, NGOs, including foreign ones, were persecuted and marginalized. This shows that in highly patrimonial societies, where patronage networks decide the fate of the patron, the “bad guys” can act like liberals and the “good guys” become tyrants, depending on incentives.
- It is also recommended to change the viewpoint and start security sector reforms by clarifying the incentives which Shavkat Mirziyoyev, his network and other large patronage networks face, and, based on this, look for possible changes (or situations that need to be avoided). Thus, political thinking and analysis should be taken into account, and it should be acknowledged that the transformation of security institutions can take a long time and not meet the short time frames set by donors.
- Educational, professional and intercultural exchange programmes (especially for mid-level officials, including security officials) are extremely important. They introduce Uzbek youth and bureaucrats to how everything works in open societies, and give an idea that things can be different in their own country.

The Need for a Comprehensive Review of the Defence and Security Sectors

- International donors should urge the government of Uzbekistan to conduct a comprehensive review of the security and defence sectors, and all strategic documents, such as the National Security Concept, should be revised and updated after this review.
- International donors could support the creation of a National Reform Council to address the lack of a common vision for reform, especially with regard to security sector reform, among the executive, judicial and legislative branches of government.
- Distinguishing the competence of different security sector agencies should be one of the main objectives of international assistance. Duplication of functions among departments breeds competition and mistrust. This distinction should be clearly stated in the national security draft law currently under development.
- The international community must support the reform of the State Security Service. The goals of the Security Service reform can be effective civilian oversight of the service, demilitarization of the Service, a clear delineation of authority between the Service and other law enforcement agencies, in particular, by limiting

the investigative functions of the Service and ensuring the observance of human rights.

- Another priority for international aid agencies relates to the need to improve the organizational culture in the security sector to combat corruption. All institutional processes need to be reformed, from recruitment, training, professional development to disciplinary action.
- Too broad and imprecise wordings in the recently adopted law on countering extremism, in particular, the terms “extremism,” “extremist activity,” and “extremist materials,” should be clarified and specified. The international community should urge the Uzbek government to refrain from using legislation that unduly restricts freedom of religion, expression, assembly and association, in particular political dissidents and religious groups not sanctioned by the state.

Assistance Required in Oversight of the Security Sector by Parliament, Public and Media

Any reform attempt is doomed to failure if supervisory bodies, such as Parliament, civil society, and the media, are not involved in the reform process or cannot control it.

- An act should be passed on the democratic civilian control of the Armed Forces.
- Projects should be implemented to improve the qualifications and professionalism of MPs and Parliamentary staff on issues related to security sector governance and oversight. Parliamentary committees responsible for overseeing security and defence agencies also lack resources and services, especially with regard to recruiting qualified personnel.
- The capacity of the ombudsman to monitor the observance of human rights in the security forces should be strengthened.
- Donors should pay more attention to the Accounts Chamber through joint projects with civil society and Parliament to establish bilateral ties and democratization.
- The media and civil society organizations are in urgent need of additional capacity and knowledge on how to oversee the security sector.
- Projects should be initiated to raise public awareness and promote discussion of democratic oversight and best practices in governance and security sector reform.
- Press services and public relations departments of the security agencies should be trained on the technologies of strategic communications and cooperation with the media to be more capable to inform the public.

Gender and Security Sector Reform

- International development organizations could promote gender equality in recruitment to increase the representation of women in all security positions and ranks, not just in administrative or support positions.
- Uzbekistan's security agencies need awareness raising and training to ensure a gender-responsive work environment, master gender-responsive communication, and combat gender bias and stereotypes among them.



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