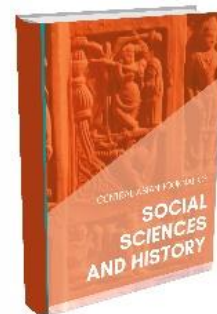




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## Problems in Women's Access to Freedom of Expression and Peaceful Assembly in the Kyrgyz Society

**Aikanysh Eshnazarova**

Human and Economic Geography, Ankara University

### Abstract:

Various activities such as conferences, panels, meetings and marches are held around the world for 8 March International Women's Day. The purpose of these activities is to draw the attention of society and policy makers to current issues such as women's rights, gender inequality, violence against women, and the obstacles faced by women due to tradition. Thus, it is demanded to produce solutions and finally to get rid of these problems. Such activities are carried out within the framework of the fundamental rights of people, namely freedom of expression and freedom of assembly. In this respect, on March 8, 2020, Kyrgyz women's rights defenders and activists held a solidarity march at the Victory Square in Bishkek on the grounds that the traditions practiced in the Kyrgyz society devalues women and produce violence against them. However, the organizers and participants of this march were attacked by a group of masked men wearing Kyrgyz traditional hats, and the march terminated. Nearly 70 women participants, including the march organizers, were arrested by the police and taken to the police station.

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This shows that to what extent freedom of expression and the right to peaceful assembly is protected in the country and whether gender inequality is seen as a problem by policy makers. This study aims to critically examine the prevention of the 'No to Violence Against Women' and 'Bride Kidnapping is a Crime' march held in the capital Bishkek on March 8, 2020, and the detention of participants who joined this march in the context of freedom of expression and gender.

## Introduction

Events such as marches, conferences and demonstrations are held around the world on March 8, International Women's Day, addressing women's rights, gender equality, violence against women and the problems and obstacles faced by women. On March 8, 2020, the peaceful march 'No to Violence Against Women' and 'Bride Kidnapping is a Crime' was organized by female activists from Kyrgyzstan. However, this march was attacked by a group of masked men wearing traditional Kyrgyz hats (*ak kalpak*) and the march was interrupted. The authorities remained silent as the men attacked and interrupted the march. Moreover, this peaceful march was banned by defining it as an event that could sow feelings of anxiety and discontent among the people, on the grounds that it was dangerous in terms of moral principles and contrary to the traditional value system. However, the Constitution of the Kyrgyz Republic guarantees freedom of expression and freedom of assembly and clearly states that the scope of these rights allows such activities. The question is here how freedom of expression is realized in the country and to what extent citizens of the Kyrgyz Republic can use their freedom of expression and freedom of peaceful assembly. As the people of a country accustomed to the strong authoritarian regime of the Soviet Union, it is very important to answer to what extent they are aware of their democratic rights and freedoms and to what extent they can use these rights. On the other hand, the question comes to mind to what extent the Kyrgyz society's, which has a traditional and patriarchal structure, traditional interests are in parallel with the democratic freedoms of the society. This study seeks to answer the above research questions by examining the prevention of the 'No to Violence against Women' and 'Bride Kidnapping is a Crime' peaceful march planned to be held on March 8, 2020 in Bishkek, and the events that occurred following the march.

The aim of this study is to question the problems in accessing the freedom of expression and peaceful assembly of Kyrgyzstani women. And, it is to critically examine the disadvantages of these women throughout their experience of exercising freedom of expression and peaceful assembly in the context of gender. The study relies on both primary and secondary sources. It widely uses concepts and official documents related to human rights, freedom of expression and peaceful assembly. It also utilizes data and insights mainly obtained from articles, scholarly books, experts' opinions, reports and news to address the human rights, freedom of expression and peaceful assembly issues, and discuss the subject of the study. This study is composed of three main parts. The first part briefly explains the definition, scope and protection mechanisms of freedom of expression. The second part examines the place and scope of freedom of expression and peaceful assembly in the Constitution of the Kyrgyz Republic. The third part discusses the developments and events that took place both before and after the 'No to Violence against Women' and 'Bride Kidnapping is a Crime' march planned to be held in Bishkek on March 8, 2020, and deals with the question whether the traditional interests of the society and democratic freedoms are in parallel. Lastly, the conclusion part discusses the findings and results of the study.

## Freedom of Expression and Freedom of Peaceful Assembly

Every action that people perform is the result of thinking. Aristotle stated that the most important quality that distinguishes human and animal from each other is reason and thinking, and thinking attributes humans the feature of being a unique being. (Aristoteles 2000: 420). Thinking is the action of using your mind to produce ideas, decisions, memories (britannica.com, 2022). It is defined as the ability to compare, to differentiate, to combine, to grasp connections and forms (Turkish Language Institution, 2021). Freedom of thought is the state of being solely responsible for oneself, without being limited by external pressures and prohibitions and independent of their influence (Yildirim, 1999:189). However, for the (free) thinking to make sense, the individual must also have the freedom to express his/her thoughts.

Freedom of thought, which is at the forefront of human rights, is the freedom to express one's thoughts (Bahce and Demir, 2015:43). As every individual has the right to think freely, he has the freedom to express, discuss and publish ideas, opinions, mental judgments and thoughts obtained as a result of thinking. Freedom of expression includes the right to express views; through published articles, books or leaflets, television or radio broadcasting, works of art, the internet and social media; or aloud through public protest and demonstrations. Freedom of expression includes not only the disclosure of approved and non-offensive opinions, information and thoughts, but also the disclosure of shocking, hurtful and disturbing thoughts (Ozbey, 2013:42). All these are reflections of thoughts, which are the output of thinking, through written, verbal and pictorial means.

Freedom of thought and expression is guaranteed by the Universal Declaration of Human Rights (UDHR). According to Article 19 of the 1948 UDHR, 'Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.' Article 20 states that 'Everyone has the right to freedom of peaceful assembly and association' (UN, 1948). While freedom of peaceful assembly assures the right to take part in a peaceful demonstration or public meeting, freedom of association assures the rights to form and join clubs, societies, trade unions or political parties with anyone. Therefore, it is clear that freedom of expression and freedom of peaceful assembly, which are the main subjects of this study, are universal rights guaranteed by the UDHR.

The UDHR, a milestone document in the history of human rights, has been accepted as the rules to be taken as a basis for national, regional and international organizations over time. It has paved the way for the adoption of more than seventy human rights treaties, applied today on a permanent basis at global and regional levels. UDHR is the principles that all states that are members of the United Nations should take into account regarding democracy and human rights. The Venice Commission's member states define freedom of expression and peaceful assembly, which are an important aspect of any democratic society, in their constitutions, based on the opinions of the Venice Commission. Freedom of expression is one of the most important and fundamental freedoms guaranteed by the European Convention on Human Rights (ECHR), and the protection afforded by Article 10 of the ECHR covers any expression published by any individual, group or type of media, regardless of its content (Macovei, 2001:6). In the constitutions, freedom of expression is included in the human rights section and is considered as the basic condition for the development of every individual and the progress of a democratic society. (Macovei, 2001:6). Because pluralism and open-mindedness are the most important elements in the formation of a democratic society. (Bahce and Demir, 2015:44).

## **The Place and Scope of Freedom of Expression and Freedom of Peaceful Assembly in the Constitution of the Kyrgyz Republic**

After declaring its independence on August 31, 1991, Kyrgyzstan adopted a democratic and secular style of government. Article 1 of the 1993 Constitution of the Kyrgyz Republic states that ‘the Kyrgyz Republic is a sovereign, democratic, secular, unitary and social state of law’ and this provision has always remained unchanged in constitutions, subsequently amended/changed several times (Constitution of the Kyrgyz Republic, 1993, 1995, 1998, 2003, 2010). Since its independence, Kyrgyzstan has also joined many regional and international organizations such as the United Nations and the Venice Commission and has stated that it would take into account the joint decisions and declarations, views and opinions of these organizations about the issues of democracy and human rights. In this context, it can be accepted that Kyrgyzstan designed its constitution within the framework of the 1948 Universal Declaration of Human Rights of the United Nations and taking into account the opinions of the Venice Commission.

The Constitution of Kyrgyzstan has secured individuals’ freedom of expression and freedom of peaceful assembly and has clearly revealed the place and scope of these rights. While article 31 states that ‘1) Everyone has the right to freedom of thought and expression; 2) Everyone has the freedom to express and express his opinion and the freedom of the press’, article 33 states, ‘1) Everyone has the right to freely seek, obtain, store, use and disseminate information orally, in writing or otherwise.’ (Constitution of the Kyrgyz Republic, 2010). Article 34 states that ‘1) Everyone has the freedom of peaceful assembly; 2) Everyone has the right to appeal to the authorities to ensure peaceful assembly. Appendix: Prohibition and restriction of peaceful assembly, as well as renunciation of peaceful assembly, are not allowed due to failure to notify about peaceful assembly, failure to comply with the form of notification, content and timing of the assembly. 3) Organizers and participants of peaceful assemblies are not responsible for non-compliance with the peaceful assembly, non-compliance with the form of notification, content, and non-compliance with the deadline for notification’ (Constitution of the Kyrgyz Republic, 2010). Therefore, freedom of expression and peaceful assembly, which are one of the cornerstones of democratic societies, are guaranteed by Articles 31, 33 and 34 of the Constitution of the Kyrgyz Republic.

‘Peaceful assembly law’ of the Kyrgyz Republic was adopted on May 4, 2012, and this law has become a new tool for regulating public relations in the field of implementation of the right of each individual to peaceful assembly. When drafting this law, the opinions of human rights defenders, representatives of reputable international organizations such as the Organization for Security and Cooperation in Europe (OSCE) and the Venice Commission, and the professional legal community of the Kyrgyz Republic were taken into account. An important aspect of the peaceful assembly law is that organizers and participants in peaceful assembly have the right to give advance notice to the authorities. Failure to notify about a peaceful assembly can not be a reason to restrict or prohibit that meeting. Therefore, this law guarantees that the right to peaceful assembly, which is among the negative rights and is the basic principle of a democratic society, can be exercised under all circumstances without being hindered by any state organs.

### **Do Traditional Interests and Democratic Freedoms Show Parallels in Kyrgyz Society?**

International Women’s Day, the 8th of March, is a day of increasing gender awareness around the world. On this date, activities such as conferences, marches and meetings are held, as well as national

strikes at various levels, which both refer to the history of women's equality and emancipation and focus on current issues of gender inequality. Despite the international history of gender activism, Kyrgyzstani women experience March 8, one of the most controversial dates in the post-Soviet calendar, in different ways. In post-Soviet Kyrgyzstan, March 8 carries the idea that womanhood should be celebrated. In other words, the women's holiday (day) discourse on March 8 starts early in the morning and continues to be celebrated with programs on television and concerts dedicated to women on this very special day. Women are greeted with flowers and the slogan-‘Happy Women's Day’, pink cakes are served in cafes, and colleagues exchange gifts among themselves. On the other hand, social media overflows with photos of men buying and distributing flowers. In recent years, with the development of the feminism movement among the younger generation and the increasing awareness about gender inequality in Kyrgyzstan, the importance and meaning of 8 March, which was inherited from the Soviets, has been transformed into a different dimension. Today, a certain minority segment emphasizes the reason for the emergence of March 8 and its history.

On March 8, 2020, a group of Kyrgyz activists organized a peaceful march to draw attention to the issue of violence against women and bride kidnapping in Kyrgyzstan. On the day of the march, organizers and participants gathered in Victory Square in Bishkek (American BAR Association Center for Human Rights, 2020:8). Feminists and women from all groups participated in the peaceful march. The participation of a large number of young women contributed significantly to the diversity of the slogans and the plurality of women's ways of expressing their objections and demands.

The main themes of the peaceful march were ‘No to Violence against Women’ and ‘Bride Kidnapping is a Crime’. In addition to the protest against violence against women and femicide, which became more and more frightening day by day, and the kidnapping of girls for the purpose of marriage under the guise of tradition, and those who supported this, there were objections about the identification of a woman with other things. However, shortly after the start of the peaceful march, a group of masked men wearing traditional Kyrgyz hats, *ak kalpaks*, attacked the participants. As a result, most of the participants and journalists were injured. They also tore up their banners by throwing eggs at the participants (Mediazona, 2020). However, instead of following the attackers, the police started to detain the injured participants and took them to the Sverdlovskiy District Department of Internal Affairs (Azattyk Unalgysy, 2020; Human Rights Watch, 2020a). 70 participants, mostly women, were detained at the police station for hours. It was stated by the police that because participants ‘destabilized the situation’ because their march displayed an ‘aggressive’ attitude, they ‘prevented negative consequences’ by arresting activists. (Baimuratova, 2020). In addition, six march organizers and participants were charged with disobeying the police and fined 3,000 to 6,000 soms. The peaceful marchers were not informed of the reasons for their detention and were not allowed to see their lawyers (Human Rights Watch, 2020b).

There is an important point to be mentioned about the process. On February 24, 2020, the organizers of the peaceful assembly informed the Bishkek mayor about their annual march against violence against women. Although the organizers informed in advance of their annual march, on 6 March 2020, the authorities tried to stop the march by imposing illegal restrictions on this event. Pervomaiskiy district court has decided to ban public gatherings, including the peaceful march on March 8, due to the coronavirus epidemic (American BAR Association Center for Human Rights, 2020:9). However, at that time, no case of COVID-19 had yet been reported in the country and the first case was confirmed only on March 18, 2020 (Our World in Data, 2020).

The organizers and participants filed a lawsuit against the Pervomaiskiy district administration

regarding the violation of freedom of expression and peaceful assembly guaranteed by Articles 31, 33 and 34 of the Constitution of the Kyrgyz Republic. At the hearing, representatives of the Pervomaiskiy district administration defended the peaceful march as an event that would create feelings of anxiety and discontent among the people. In the continuation of the hearing, the representatives of the Pervomaiskiy district administration stated that the slogans such as ‘I own my body’ and ‘I will not pour you tea’ are dangerous in terms of moral principles and are against the traditional value system (American BAR Association Center for Human Rights, 2020:10). Thus, not only the defense made by the district authorities regarding the restriction of the march, including the arrest and unlawful detention of the participants and organizers of the march, was completely unfounded and unreasonable, but also, they clearly violated the peaceful assembly rights of the people guaranteed by the Constitution of the Kyrgyz Republic. Considering the unpleasant experience of Kyrgyzstan in terms of women's marches on March 8 and women's movements in general, it can be argued that such decisions officially limit women's freedom of expression and peaceful assembly. The fact that rights and freedoms in Kyrgyzstan are not directly exercised and that this is supported by the state administration indicates that democracy has not fully developed in the country.

In 2013, the OSCE Representative on Freedom of the Media, Dunja Mijatović, stated: ‘With the creation of a favorable media environment in Kyrgyzstan, several important steps have been taken to create conditions that allow for genuine discussion on issues of public interest. Significant progress has been made in promoting freedom of the media and freedom of expression’ (OSCE, 2013). Although Kyrgyzstan is the first Central Asian state to organize women's solidarity marches in support of women's rights since 2016, these efforts have been heavily criticized and even forcibly stopped (Akisheva, 2021). One of the examples is the ‘Feminale’ art exhibition held in 2019 in memory of 17 Kyrgyzstani migrant workers who lost their lives as a result of a fire in a printing house in Moscow on August 27, 2016 (Sputnik.kg, 2017). Creative expressions and demonstrations of gender inequality exhibited in the exhibition ‘Feminale’, which tried to draw attention to the problem of the status of women in modern society, received angry reactions from some social groups, such as the ultra-rightist *Kyrk Choro* (Forty Knight) who define themselves as a patriotic movement (24.KG,2019). The *Kyrk Choro*'s demand was to ban the exhibition and the dismiss the director of the museum. As a result, the Ministry of Culture condemned these forms of creativity, terminated the exhibition and dismissed the museum director (Vesti.kg, 2019). Thus, the restriction or prevention of women's movement demonstrations and peaceful gatherings on March 8, turns out to be a flashpoint between the two faces of modern Kyrgyzstan. Thus, the restriction or prevention of women's movement demonstrations and peaceful gatherings on March 8 demonstrates the two faces of modern Kyrgyzstan.

After the end of 70 years of communism with the collapse of the Soviet Union, an ideological vacuum had emerged in Kyrgyzstan. The government of Kyrgyzstan, which began to search for a new ideology, emphasized nationalism and cultural traditions and adopted them as the basis of a new ideology. At this point, Kyrgyzstan sociologist Sultanalieva says (2020) “It is time for men to return to their "natural" status as household heads and livelihoods, and for women to return to their "natural" roles as mothers and housewives. (İbrayeva, 2021). After the independence, the transition of the state to traditionalism and its intensification gave immediate results. The proportion of women in the country's economic sector has fallen sharply since 1991. The share of Kyrgyz women in the labor market decreased from 81.6% to 42.3% between 1991 and 2007 and this decline still continues (İbrayeva, 2021). Therefore, it can be argued that women's movements in modern Kyrgyzstan emerged

in response to the uncontrolled radicalization of the population and the increasing traditional orientation of the state after the collapse of the Soviet Union.

The fact that women's movements are prevented from exercising their right to freedom of expression and peaceful assembly by men wearing traditional Kyrgyz hats, or by social groups such as the far-right *Kyrk Choro*, clearly shows that the foundation was laid by a traditionalist state administration. Although Kyrgyzstan is defined in the constitution as a sovereign, democratic, secular, unitary and social state governed by the rule of law, in reality it is stuck between democratic freedoms and traditions and customs.

## Conclusion

Freedom of peaceful assembly is a fundamental human right and a natural condition for the exercise of other human rights, including the right to freedom of expression, an essential aspect of any democracy. However, in recent years, human rights activists and organizations in Kyrgyzstan have seen the implementation of the right to freedom of peaceful assembly in the country as a priority that requires the attention of the public and the international community. The reason for this is explained by the behavior of state bodies and public officials to belittle and ignore the freedom of peaceful assembly (Azimov and Sayakova, 2012:5). The lack of professionalism and often abuse by public officials poses a threat to the safety of organizers and participants in peaceful gatherings. Although the detention of human rights defenders and activists in Kyrgyzstan is against human rights standards, there are numerous examples of administrative detentions on the grounds that they violate procedure of the peaceful assembly.

Peaceful march on March 8, 2020 was defined as an event that can cause anxiety and discontent among the population on the grounds that it was dangerous from the point of view of moral principles and contrary to the traditional system of values, and eventually was banned. The authorities remained silent when a group of men wearing traditional Kyrgyz caps attacked the march organizers and participants and disrupted the march. Moreover, this made the lives of the victims more difficult as they applied to report their experiences. This is the most important indicator of the lack of democratic freedoms in the country. The fact that freedom of expression and peaceful assembly cannot be fully exercised by women, as guaranteed by Articles 31, 33 and 34 of the Constitution of the Kyrgyz Republic, is due to the fact that these freedoms are provided by the traditionalist state administration.

The experience of the peaceful march 'No to Violence Against Women' and 'Abduction is a Crime' on March 8, 2020 indicates that there is a conflict between democratic and the interests of the traditional and patriarchal society, which is supported by the traditionalist state administration. The potential for resistance to government restrictions and the pluralism of opinions in Kyrgyzstan show that the situation regarding freedom of expression is more encouraging than pessimistic. Despite the problems listed above, Kyrgyzstan is at the forefront in the exercise of democratic rights and the formation and development of civil society in Central Asia. However, Kyrgyzstan should look to the countries that have gone too far at this point, instead of comparing itself with the Central Asian countries that are behind in freedom of expression.

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