UA: UKRAINE ANALYTICA

Issue 3 (21), 2020

- PANDEMIC RESPONSE
- INFODEMIC AND STRATEGIC COMMUNICATIONS
- SECURITY STRATEGIES

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Issue 3 (21), 2020

New Threats

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Publisher:
Published by NGO "Promotion of Intercultural Cooperation" (Ukraine), Centre of International Studies (Ukraine), with the financial support of the Representation of the Friedrich Ebert Foundation in Ukraine, the Black Sea Trust.

UA: Ukraine Analytica is the first Ukrainian analytical journal in English on International Relations, Politics and Economics. The journal is aimed for experts, diplomats, academics, students interested in the international relations and Ukraine in particular.

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ISSN 2518-7481

500 copies

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COVID-19 AND THE SURVEILLANCE STATE: A NEW PRETEXT FOR LIMITING PERSONAL FREEDOMS AND DISSENT IN THE POST-SOVIET SPACE

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COVID-19 has seen a number of governments in the post-Soviet region enhance their law enforcement and surveillance capabilities. Governments are leveraging existing technologies to police COVID-19 lockdowns and using the pandemic as a test case for new forms of tracking citizens. In the absence of a clear end date to the pandemic, there is an emerging threat of governments' maintaining enhanced restrictions on fundamental freedoms and employing surveillance technology indefinitely as a means of suppressing dissent. The international community will need to improve its understanding of these threats, and integrate them into policy responses to democratic deficiencies in the region.

A Novel Threat, a Novel Pretext

The COVID-19 pandemic has prompted multiple changes in the behaviours and expectations of governments vis-à-vis their populations. It has seen populations and legislatures grant state bodies powers that in many countries were hitherto inconceivable. The mandatory closure of private businesses, restrictions on the movement of people across borders, within their own country and in some cases within their own cities, and the implementation of penalties for failing to wear face coverings in normal times would raise significant alarm. In the post-Soviet region, the adoption of many of these measures has generated less attention among populations than in Europe or North America, given that states in the region already in the pre-COVID-19 context enjoyed a high ability to control and restrict the population's activities and movement. Meanwhile, domestic checks and balances on government powers and policies are in many cases weak, and civil society organisations have limited resources to track and call out improper governance. This makes watching out for and identifying the abuse of pandemic-related measures in the post-Soviet region at an international level all the more vital.

We have identified three areas of particular concern regarding how post-Soviet governments are responding to COVID-19, which are – or could be – used to pursue non-epidemiological agendas. These areas are:

- The expansion of police powers and states of emergency;
- The passage of legislation without usual levels of scrutiny;
- The leveraging of existing surveillance capability, or testing and expansion of new surveillance tools, to police lockdowns and/or track propagation of the virus.

In the absence of a clear end date to the pandemic, there is a substantial threat that governments will maintain increased law enforcement activities and limitations on public assembly indefinitely as a means of suppressing opposition activity and protests. Meanwhile, the mobilisation of sophisticated surveillance capacities to tackle COVID-19 threatens to provide governments with a vast new means of monitoring and containing civic action and dissent, well beyond the need to track and trace epidemiological threats.

Police Powers and Detaining Critics

The expansion of police powers was probably the first and most anticipated area in which COVID-19 was abused in the region. In Kyrgyzstan, for example, lockdowns and curfews in place at the beginning of the outbreak led to multiple anecdotal reports of abusive behaviour on the part of law enforcement personnel, including arbitrary detention.[1] Meanwhile, states of emergency put in place to tackle the virus have provided authorities with a convenient mechanism for containing their critics.

Abuse of COVID-19-related restrictions as a means to suppress the political opposition was evident in the early stages of the pandemic. In Azerbaijan, by April at least six opposition activists and pro-opposition journalists had been arrested on charges of violating quarantine or lockdown rules, and received up to 30 days imprisonment as a result. All had been vocal in their criticism of the government's response to the pandemic.[2]

Across Central Asia, at least 300 people have been detained for spreading false information about the virus, and a disproportionate number appear to have been journalists and opposition activists. In Kazakhstan, a prominent activist who had been organising anti-government protests before the pandemic broke out was convicted in June 2020 for spreading false information about coronavirus after he criticised the government's response online. He was prohibited from participating in political or social activism for five years.[3] In Kyrgyzstan, social media users who had posted content expressing criticism or concern about the state response reported having their homes searched.[4] As lockdowns have been eased, arrests on the basis of violating quarantines and stay-at-home measures have receded. However, legislation allowing for the detention of people accused of spreading false information about the virus remains in place across many countries, especially in Central Asia, and will remain prone to abuse or at the least subjective assessments.

> «***the mobilisation of sophisticated surveillance capacities to tackle COVID-19 threatens to provide governments with a vast new means of monitoring and containing civic action and dissent, well beyond the need to track and trace epidemiological threats***

[1] A. Imanaliyeva, *Kyrgyzstan Law Enforcement Abusing Coronavirus Restrictions*, Activists Say, "Eurasianet", 24 April 2020 [www.eurasianet.org access: 15 August 2020].

[2] *Azerbaijan: Crackdown on Critics amid Pandemic*, "Human Rights Watch", 16 April 2020 [hrw.org access: 15 August 2020].

[3] *Kazakh Activist Convicted of Criticizing Government's Coronavirus Response*, "Radio Free Europe/Radio Liberty", 23 June 2020 [www.rferl.org access: 30 August 2020].

[4] E. Lemon, B. Jardine, *Across Central Asia, Police States Expand Under the Cover of COVID-19*, "World Politics Review", 14 July 2020 [www.worldpoliticsreview.com access: 15 August 2020].

States of Emergency

Concerns about the misuse of COVID-19-related states of emergency by governments have been observed across the world. The prohibition on public gatherings mandated under most states of emergency has also generated concern about abuses in some post-Soviet nations. In Armenia, the government has extended a state of emergency each month since March 2020, all the while demonstrating strong reluctance to impose any new lockdown measures since May 2020. This has attracted criticism from opposition politicians. They view the renewal of states of emergency, and specifically the prohibition within them on public assembly, as a pretext for warding off anti-government protests, amid growing criticism of the government's handling of the pandemic. The government upon announcing yet another extension of the state of emergency in August 2020 finally removed restrictions on political rallies, but concern about the legal freedom that the state of emergency affords the government persists.[5]

In Kazakhstan, law enforcement in April 2020 detained a number of journalists for violating the terms of the state of emergency, after they shot footage in the courtyard of a hospital for a report about a controversial transfer of patients; the journalists said that all their documents were in order.[6] A number of government critics in Central Asia were also charged with spreading false information during the state of emergency on what rights activists described as spurious grounds.[7]

A Murky Environment for the Passage of Legislation

The virus has also seen threats to the legislative process emerge in more subtle ways in the post-Soviet region. Opportunities for MPs, public watchdogs, and industry stakeholders to scrutinise government and legislation are typically poor in many jurisdictions in normal times. The lack of transparency surrounding governance and the legislative process is being exacerbated in the current conditions. In some cases, governments are using COVID-19 and the states of emergency linked to it to distract from – or as a justification for – the adoption of controversial legislation, or to pass measures without requisite consultation of affected parties.

> ***Across Central Asia, at least 300 people have been detained for spreading false information about the virus, and a disproportionate number appear to have been journalists and opposition activists***

For example, the Tajikistan government in March 2020 introduced a requirement that all electronic devices be registered with a government body, for security and defence purposes.[8] The controversial measures have been in the works for several years, and there are few mechanisms in place in ordinary

[5] *Armenia Extends Coronavirus State of Emergency*, "Radio Free Europe/Radio Liberty Armenia service", 12 August 2020 [www.azatutyun.am access: 15 August 2020].

[6] Z. Iskaliyeva, *Журналистов КТК забрала полиция – медики облбольницы не успели сказать им свою правду (Journalists from KTK Detained by Police – Doctors Unable to Tell Them Their Rights)*, "Ақ Жайық", 11 April 2020 [www.m.azh.kz access: 30 August].

[7] *Central Asia: Respect Rights in Covid-19 Responses*, "Human Rights Watch", 23 April 2020 [www.hrw.org access: 30 August].

[8] *Total Control over Mobile Devices in Tajikistan*, "Cabar Asia", 18 May 2020 [www.cabar.asia access: 15 August 2020].

times for lawmakers or interested parties to scrutinise and comment on legislation. Nonetheless, their introduction in the early days of the global COVID-19 panic meant that they received even less scrutiny from both local and international monitors and created fewer opportunities for industry input than usual. With presidential elections scheduled for October 2020, there is justified speculation that the law provides the authorities with another tool to control citizens and their communications._

> ***Perhaps of greatest, longer-term concern is the way in which governments are leveraging existing – or developing new – surveillance technologies to police their lockdowns and to track the epidemiological situation***

More ambitiously, there is a threat that some political forces may seek to pass significant political changes under COVID-19 lockdowns. In Kyrgyzstan during the COVID-19 state of emergency, an MP in March 2020 proposed holding a referendum on introducing a presidential rather than parliamentary voting system. It was widely viewed as an attempt to extend presidential term limits.[9] While it gained little traction with other lawmakers, it is an example of how the crisis provides an opportunity to introduce far-reaching political changes without even the relatively low levels of opposition and media scrutiny usually in place in the region.

Sophisticated Surveillance

Perhaps of greatest, longer-term concern is the way in which governments are leveraging existing – or developing new – surveillance technologies to police their lockdowns and to track the epidemiological situation.

Russia is a prominent example. Russia had already over several years been developing an increasingly vast and sophisticated artificial intelligence (AI) capacity. It adopted a national AI Strategy in October 2019, calling for an ambitious programme for the development of AI up to 2030, including the development of a population database and the production of a proprietary hardware platform. The government saw COVID-19 as an opportunity to test the emerging technology in place under this strategy, and in turn, an opportunity to use that technology to manage the virus and police popular adherence to suppression measures.[10]

To that end, the Russian authorities since mid-March 2020 have been expanding surveillance measures in order to enforce COVID-19 lockdowns. In the capital Moscow alone, a network of tens of thousands of cameras, already installed with facial recognition software as part of a Safe City initiative, was used in conjunction with a personal digital pass system, under which people wishing to leave their home during lockdown were required to log their requested outings via a digital pass, a QR code system installed on their mobile phone. In total, 23 regions used the digital pass system to oversee COVID-19 lockdowns.

[9] E. Kazibekov, *Эксперт: Общество воспримет референдум как попытку узурпации власти Жээнбековым (Expert: Society Views the Referendum as an Attempt by Jeenbekov to Usurp Power)*, “Vesti.kg”, 2 April 2020 [www.vesti.kg access: 15 August 2020].

[10] J. Paul Goode, *Russia and Digital Surveillance in the Wake of COVID-19*, Ponars Eurasia Policy Memo 640, May 2020 [www.ponarseurasia.org access: 15 August 2020].

These measures, which facilitate the collection of personal data, allowed the authorities to identify breaches of the lockdown. The Moscow police in mid-March 2020 said that they had detained 200 residents during the first two weeks of using the city's 178,000 facial recognition cameras for violations of stay-at-home requirements. In the Krasnodar region, the regional authorities said they had identified 504,000 vehicles breaking quarantine in the first day of the system's operation alone.

Such surveillance has clear implications for data security, and raises the potential for abuse of personal data by the authorities. Several Russian rights groups have voiced concerns about the enhanced surveillance measures, arguing that the government deployed the surveillance technology without putting in place safeguards to ensure that the measures were legal and proportionate to the crisis. Agora International Human Rights Group has said several of the measures violated the right to a private life, medical confidentiality, and freedom of movement.[11]

Kazakhstan has also allowed the use of existing video surveillance footage equipped with facial recognition technology – also, like in Russia, installed on the basis of improving traffic safety – to police its lockdown. Footage of people's movements recorded on cameras has been used by local courts to establish violations of restrictions of movement around cities during lockdowns.[12]

Looking forward, the deployment of technology of this kind creates a simple mechanism for surveillance to last well beyond the COVID-19 crisis, especially once it has been installed. The head of the World Health Organisation in Russia in an interview stated that surveillance tools "can be useful as long as they are used in the appropriate way", and emphasised the importance of COVID-19-related restrictions and measures more broadly being "commensurate with the risk and be time limited".[13]

However, in the context of the Russian government's steady increase since 2012 of control over internet freedoms under the pretext of combatting extremism and other vague security commitments, there can be little confidence that these enhanced surveillance measures will not be used for purposes that stretch well beyond tackling and containing COVID-19. Russia has overseen a proliferation of legislation aimed at increasing its ability to censor content, block websites, and retain, and interfere in the privacy of, communications. Human rights defenders have documented multiple cases of these laws being used on spurious grounds for political purposes, and in many instances in contravention of citizens' freedom of expression.[14] Pertinently, facial recognition technology was used in Russia in September 2019 to identify participants at an authorised rally. Activists in Russia have since failed in their attempts to ban the use of such technology at protests on the grounds that it violated rights to privacy and freedom of assembly, but in July 2020 took

[11] D. Gaynutdinov, *Пандемия слежки (A Pandemic of Surveillance)*, "Agora International Human Rights Group", July 2020 [www.agoral.legal access: 15 August 2020].

[12] E. Lemon, B. Jardine, *Across Central Asia, Police States Expand Under the Cover of COVID-1*9, "World Politics Review", 14 July 2020 [www.worldpoliticsreview.com access: 15 August 2020].

[13] C. Maynes, *Behind Russia's Coronavirus Fight, a Surveillance State Blooms*, "Voice of America", 6 May 2020 [www.voanews.com access: 15 August 2020].

[14] *Online and on All Fronts: Russia's Assault on Freedom of Expression*, "Human Rights Watch", 18 July 2017 [www.hrw.org access: 15 August 2020]; *Russia: Growing Internet Isolation, Control, Censorship*, "Human Rights Watch", 18 June 2020 [www.hrw.org access: 15 August 2020].

their case to the European Court of Human Rights.[15]

Tracking and Tracing

Meanwhile, the development of mobile (cell) phone applications to track and trace COVID-19 cases opens up a new source of concern. Central Asian governments have been particularly active in this respect. Kyrgyzstan in April released its STOP COVID-19 KG application, in principle an effective tool to track and trace confirmed and suspected cases of the virus. The application combines an individual's geolocation data and digital profile – including passport data, and also allows those managing it to listen to a user's conversations and even to take control over the device.

> ***The tension between security and public health responses, on the one hand, and respect for human and social rights, on the other, is a complex issue that governments and populations across the world must regularly examine and balance***

In practice, the application appears to have been used mostly to issue fines to COVID-19 violators rather than to allow the authorities to oversee targeted self-isolated and stay-at-home programmes for people who have been exposed to COVID-19.[16] While that may be justified as an important part of the Kyrgyzstan government's response to the virus, the focus on identifying violations rather than tracking and tracing the virus provides insight into how it can and might be used to police broader civilian behaviour outside of the context of the virus. A Kyrgyzstan-based monitoring group has described the application as gross violation of laws regarding personal data protection and cybersecurity.[17]

Beyond COVID-19

The tension between security and public health responses, on the one hand, and respect for human and social rights, on the other, is a complex issue that governments and populations across the world must regularly examine and balance. The stakes associated with striking the wrong balance are inevitably higher in countries with weak political institutions and authoritarian tendencies. Evidently, there is a considerable threat in much of the post-Soviet region that limitations on freedom of assembly and enhanced surveillance systems will be left in place beyond any credible epidemiological need.

The political environment in which these measures are being adopted substantially increases the threat of their misuse. In Russia, levels of trust in President Vladimir Putin have seen a steady erosion since 2019 amid a fall in living standards, to reach just 23% in July 2020, the lowest since 2017, according to independent polling by the

[15] A. Zlobina, *Moscow's Use of Facial Recognition Technology Challenged*, "Human Rights Watch", 8 July 2020 [www.hrw.org access: 15 August 2020].

[16] K. Baymuratova, *Власти разработали приложение для отслеживания людей на карантине. Рассказываем, почему оно опасно (The Authorities Have Developed an Application to Track People during Quarantine. We Explain Why This Is Dangerous)*, "Kloop.kg", [27 April 2020 access: 15 August 2020].

[17] *ОФ ГИИП подготовил анализ о соответствии законодательству применяемых мер по борьбе с COVID-19 (The Civil Initiative for Internet Policy Has Prepared an Analysis of Compliance of Measures to Tackle COVID-19 with the Law)*, Общественный Фонд «Гражданская инициатива интернет политики» (Civil Initiative for Internet Policy), 14 April 2020 [internetpolicy.kg access: 15 August 2020].

Levada Centre.[18] Meanwhile, gubernatorial elections are scheduled for September 2020 and parliamentary elections for 2021. Taken together with the emergence of unusual anti-government protest activity in Russia's Far East, and the unprecedented pro-democracy protests in Belarus since early 2020, the authorities are likely to look to use surveillance systems honed during COVID-19 to marginalise dissent and maintain full control of the political environment. The same calculations are likely to be made elsewhere in the post-Soviet space. As the combination of the pandemic and falling commodities prices increases socio-economic hardship and puts strain on the social contracts on which many authoritarian regimes are based, governments will look to enhance their abilities to control and repress political discourse through whatever means at their disposal.

> ***While the motivation for abusing COVID-19-related surveillance is likely to be to monitor and control political opponents, individuals and organisations will face increasing threats to their data privacy from such measures being left in place in the longer term***

The lack of a clear end date to the threat from COVID-19 will make the extension of special powers adopted to tackle the disease relatively easy to justify internally. Our understanding of the virus has evolved to make its end date even harder to define. Where previously we anticipated distinctive waves of epidemiological crises in every country, it increasingly appears that the virus manifests in one continuous wave which peaks and troughs, requiring localised, short-term lockdowns and suppression measures. Under this evolved understanding of a constant, low-lying threat from COVID-19, it becomes even easier for governments to justify maintaining heightened suppression measures even where infection levels are stable and no nationwide lockdown is required.

While the motivation for abusing COVID-19-related surveillance is likely to be to monitor and control political opponents, individuals and organisations will face increasing threats to their data privacy from such measures being left in place in the longer term. States can abuse such tools for political or economic espionage. Cybercriminal threat actors may also increasingly focus their targeting efforts on government departments and third-party analytics providers known to store such personal data.

Policy Response

The international political community has generally been slow to understand and acknowledge how technology is becoming a fundamental tool in the maintenance and expansion of authoritarian governance. Understanding how technology can be misused requires some "tech literacy", making it harder for diverse policy audiences to detect and criticise these abuses than in the case of traditional forms of restriction on freedom of assembly and expression, such as arrests of protesters or censorship of print publications. However, the number of think tanks and civil society organisations dedicating resources to sharing these emerging problems is increasing. Several such organisations have been cited in this paper. Their work and insights provide a significant resource

[18] *Одобрение органов власти и доверие политикам (Approval of State Bodies and Trust in Politicians)*, Levada Centre, 29 July 2020 [www.levada.ru access: 15 August 2020].

for policy-makers to draw on to allow them to increase their literacy.

Thereafter, policy-makers should generate and vocally promote a clear set of international standards for the proper use of surveillance for public health emergencies, and for the legislation enabling it. Requirements that retention of data be proportionate are commonplace, but greater guidelines over what "proportionately" should look like would be welcome. A clear time limit on the use of any surveillance technology and clear directives on who exactly may access the data associated with it, especially in circumstances of a complex and intangible virus, are critical. Requirements for the destruction of this data, and transparent advertising of such, should also be put forward. Specific standards aimed at preventing such data being linked to voter data are also important ahead of elections in the region.

More broadly, governments and international organisations must integrate assessments of the use of surveillance technology into their broader assessments of the protection and promotion of fundamental freedoms in the post-Soviet space, and elsewhere. This will facilitate prompt, clear commentary following the adoption of new legislation or measures, lending greater weight to any international response and providing local monitors and activists with greater leverage in their own attempts to confront such abuses.

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Issue 3 (21), 2020
ISSN 2518-7481