

Tajikistan

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International Partnership for Human Rights (IPHR) is a Brussels-based non-profit organization founded in 2008. It works closely together with civil society groups from different countries to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities. IPHR has special consultative status with the UN Economic and Social Council.

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This document was prepared by International Partnership for Human Rights (IPHR) as a contribution to the third Universal Periodic Review of Tajikistan. It summarizes concerns and provides recommendations to the Tajikistani authorities on freedom of expression and the media, freedom of assembly and harassment of independent lawyers. For information regarding freedom of association please see IPHR's joint submission with the Coalition against Torture and Impunity for Tajikistan. For information regarding the treatment of members of the political opposition please refer to submissions by other NGOs covering this issue.

Freedom of expression and the media¹

REPRISALS, THREATS AND CRIMINAL PROSECUTION ON FABRICATED CHARGES

Freedom of expression and the media are tightly controlled in Tajikistan. Journalists face intimidation and harassment for critical reporting. According to media experts and journalists in Tajikistan and in exile, it has become virtually impossible to cover issues, which the authorities perceive to be "sensitive", without endangering one's own safety² or that of relatives. Self-censorship is increasingly common amongst independent media outlets and journalists working from Tajikistan and some journalists publish materials under pseudonyms to protect themselves and their relatives from reprisals.

In order to prevent critical coverage, the authorities have frequently threatened to withdraw media outlets' licences³; refused accreditation to journalists working with foreign media outlets⁴; undertaken excessive tax checks; fabricated criminal charges against journalists; and harassed their family members.

1 For further information, see IPHR and Article 19's report on media freedom in Tajikistan "The price of silence vs the cost of speaking out", <https://www.iphronline.org/wp-content/uploads/2020/07/ENG-Media-Report-TJ.pdf>

2 Case of physical attacks: Abdullo Gurbati (also known as Avazmad Gurbatov), ASIA-Plus journalist, was attacked by two unknown men on 11 May 2020 at the Korvon market in Dushanbe. He maintains the attack is connected to his work as a journalist, and in particular to his video reports about Tajikistan's response to COVID-19. He was again attacked on 29 May by three men in another place, in Uyali Jamoat (Khuroson district). In June, the authorities found the three individuals guilty of petty hooliganism and were fined 580 Tajik Somoni (TJS, the equivalent of approx. 50 EUR). However, the preliminary investigation relating to the attack at the Korvon market was suspended due to the failure to identify a perpetrator, cf. <https://ihahr-nis.org/sledstvie-o-napadenii-na-gurbati-priostanovleno>.

3 Licensing requirements for radio and TV broadcasters and accreditation of journalists working for foreign media outlets provide many opportunities for the authorities to discourage critical reporting. What is more, the State Committee on Television and Radio Licensing's website does not provide information about how to obtain licenses, making it difficult for applicants to follow the correct procedure. Since 2017 no new print-media has been able to register with the Ministry of Justice.

4 Human rights defenders and media experts criticize that the current "Regulation on Accreditation of Foreign Media Correspondents in Tajikistan" is outdated and refers to the provisions of the old Media Law. Journalists' organizations called on the Tajikistani authorities to review this document and bring it in accordance with international obligations and norms of the country's legislation (see <https://rsf.org/en/news/journalist-loses-accreditation-over-report-about-tajikistans-president>). Since the approval of amendments to the Law "On the Election of the President of Tajikistan" in 2018, local journalists require additional accreditation (in the form of a certificate) from the Central Election Committee in order to cover the elections, several journalists were prevented from covering the election process in 2020.

Journalists and bloggers critical of government policies risk having criminal investigations opened against them and there are several examples of journalists who have been sentenced to terms of imprisonment to punish them for peacefully exercising their right to freedom of expression in recent years. Recent examples of politically motivated charges brought against journalists include Khairullo Mirsaidov⁵ and Daler Sharipov.⁶

Journalists report being frequently threatened with criminal charges punishing “defamation and insult”, “incitement to discord”, “embezzlement” and “fraud”, and “counter-terrorism and extremism” if they do not comply with officials’ demands to refrain from covering certain issues. The broad and imprecise wording of what constitutes “terrorism”, “terrorist action”, “extremism”, “extremist activities” and “extremist materials” grants excessive discretion to authorities in the interpretation and application of these provisions. On 14 October 2020, amendments to the Code of Administrative Offences punished incitement of hatred or discord.⁷ Actions committed publicly or through media are punishable by a fine equivalent to about 480 EUR or 10 days’ administrative detention. Repeat offenders can face criminal prosecution for “incitement” (Article 189, Criminal Code).

In order to avoid reprisals for their professional reporting dozens of editors and journalists perceived as too critical by the authorities had to leave the country in recent years.⁸ Others remaining in Tajikistan have been forced to change professions.⁹

Restricted Coverage of elections: The legal framework contains numerous restrictions impeding the free flow of information about the electoral process. Since the approval of amendments to the Law “On the Election of the President of Tajikistan” in 2018, local journalists require additional accreditation from the Central Election Committee in order to cover elections. In 2020 several journalists were prevented from covering the election: in August Asia-Plus journalists were denied accreditation¹⁰ and six of 15 journalists from Radio Ozodi were also refused.

5 Independent journalist and NTV comedy club head Khairullo Mirsaidov was arrested in December 2017 on charges including embezzlement, forgery, and inciting hatred after he appealed to President Rahmon about corruption in the regional Youth and Sports Department. In July 2018 he was sentenced to 12 years in prison. Following international pressure, the authorities released him on 22 August 2018, after a court converted his prison sentence to a fine and community service. In January 2019, he was sentenced to eight months in prison for parole violation after an in-absentia trial. He is currently living in exile.

6 Independent journalist Daler Sharipov, who covered issues such as human rights and religion, was sentenced to one year’s imprisonment on 16 April 2020 allegedly for inciting religious hatred (Article 189. 1 Criminal Code).

7 Actions aimed at inciting “national, racial, local or religious enmity or discord, humiliation of national dignity, and propaganda of exclusivity of citizens according to their religion, national, racial or local affiliation.”

8 On 21 October 2016 the Prosecutor General’s Office liquidated newspaper Nigoh for allegedly insulting the President of Tajikistan in an article. In November 2016, Nigoh and Tojnews Agency (of the same media group) were liquidated and their editors were forced into exile.

9 See IPHR’s report “The price of silence vs. the cost of speaking out. Media freedom in Tajikistan”, July 2020, <https://www.iphronline.org/wp-content/uploads/2020/07/ENG-Media-Report-TJ.pdf>

10 <https://newreporter.org/2020/10/09/zhurnalistam-v-tadzhikistane-meshayut-rabotat-cho-delat/>

LIMITING ACCESS TO INFORMATION

When independent journalists, media outlets or civil society activists try to verify information, state officials rarely respond and deliberately obstruct their access to information. Civil society activists told IPHR that journalists usually refrain from lodging complaints for fear of reprisals and that to their knowledge no administrative or criminal case has been opened to punish the failure to respond to a request for information by the media.¹¹

Additionally, the authorities block and disable websites, social media platforms and internet messengers and temporarily block internet access in order to silence critical voices.

The Tajikistani authorities particularly clamp down on access to information and media freedom during periods of heightened security concerns, such as military operations in Rasht in 2010 and GBAO in 2012, when de facto restrictions were imposed on freedom of movement and internet use.

At the request of the State Committee on National Security, the Law “On Counteracting Terrorism” was amended on 25 December 2015, allowing the suspension of telecommunications services in areas of counter-terrorism operations, as well as throughout the country or in certain regions.¹² On 29 May 2019, the Martial Law Act¹³ was adopted, limiting the dissemination of information and granting state bodies the right to control communications, press publications, and censor mass media during a state of war. Although this is the first martial law adopted in Tajikistan since independence in 1991, many provisions have long been in force in all respects, even without the declaration of a state of emergency. Parliament was not previously asked for authorization.

A new law on “Counteracting Extremism” signed in January 2020 granted authorities wide-ranging powers to control websites and social networks and restrict access to them if deemed necessary. The Government Communication Service together with the State Committee for National Security or other law enforcement agency have the right to block any websites or social networks without a court decision if they consider them “extremist”.

In early 2020 all independent and privately-owned TV and radio outlets in Tajikistan were ordered to inform the authorities about planned weekly broadcasts, in a move related to the new law on “Counteracting Extremism”. On 18 February 2020, the Supreme Court ruled to block the independent news outlet Akhbor after finding that it offers a platform to “terrorists and extremists”. Akhbor thus ceased operating on 13 November 2020¹⁴ because journalists cooperating with the media site could now face criminal charges and be equated to militants or members of banned organizations.¹⁵

11 Article 23 of the Law on Print-Media and Other Mass Media stipulates that government agencies are obligated to swiftly provide information on issues of urgent public significance. Government agencies are also required to respond to critical or analytical journalistic materials pertaining to their remit within specific time frames. Should the agency need more time to respond, it has to notify the media outlet/ journalist within three days and specify when the information will be provided (Article 24). In practice authorities often do not adhere to these time frames. Article 23, part 5 of the Law on Print-Media and Other Mass Media stipulates that representatives of mass media have the right to lodge a complaint when government agencies fail to provide information.

12 CCPR/C/TJK/Q/3/Add.1, 30.04.2019, para 31

13 <https://asiaplustj.info/en/news/tajikistan/power/20190530/tajik-parliament-passes-martial-law-act>

14 <https://akhbor-rus.com/-p6046-122.htm>

15 <https://eurasianet.org/tajikistan-court-says-news-website-serves-as-platform-for-terrorists>

Akhbor.com and other exile-based media sites affiliated with the banned opposition movement Islamic Renaissance Party of Tajikistan (IRPT) such as Payom.net and Tajinfo.org remain blocked in Tajikistan and are only accessible inside the country via VPN.

Freedom of expression and information in the context of COVID-19¹⁶

The stifling of media freedom increased significantly during the COVID-19 pandemic and journalists encountered significant obstacles to accessing information from the authorities. Over March and April 2020, authorities denied that the virus had spread to Tajikistan despite media and social media reports indicating otherwise.¹⁷ Instead of investigating reports about the first suspected COVID-19 cases and using the media to raise awareness and slow the spread of the virus, the authorities warned journalists that they would be “held to account”, refused to adopt a transparent approach and rebutted journalists’ questions.

On 24 April 2020, days before the first COVID-19 cases were officially confirmed, the Ministry of Health and Social Protection of the Population (Ministry of Health) criticized journalists for reporting deaths with COVID-19 like symptoms, blaming them for “escalating the situation, which leads to conflicts and distrust in the Government and the Ministry”, and threatening that “any media outlet, private individual or reporter who publishes incorrect and false information about the coronavirus will be brought to account.”¹⁸ Even after official confirmation that there were cases of COVID-19 on 30 April, the media was blamed for “spreading panic” among the population through COVID-19 reporting. On 7 May 2020, the Prosecutor General’s Office warned that “legal measures will be taken against anybody who sows panic in the country”.¹⁹ Official statistics of COVID-19 deaths²⁰ are consistently lower than civil society estimates. A website²¹ registered abroad, which records suspected COVID-19 deaths was blocked in Tajikistan on 11 May 2020, shortly after it was launched.²²

On 7 July 2020, restrictive legislation²³ came into force which punishes those who distribute “inaccurate” and “untruthful” information about COVID-19 through the press, social networks “or other electronic means” with fines from 580 TJS (approx. 50 EUR) for individuals or administrative arrest for 10 to 15 days to 11 600 TJS (approx. 1000 EUR) for legal entities. Since the law came into effect, local media, including the few remaining independent media outlets, mainly quote governmental statistics; journalists report that it has become very difficult to double-check official statements and the general public are wary of sharing information about COVID-19 statistics on social media. Human rights defenders reported cases where Facebook users who posted non-governmental data about COVID-19 were summoned to prosecutor’s offices and warned.

16 For further information, see IPHR’s report „Human Rights Impact Assessment of the COVID-19 response in Tajikistan”, <https://www.iphronline.org/wp-content/uploads/2020/09/Covid-19-TAJ.pdf>

17 <https://www.iphronline.org/mounting-evidence-of-covid-19-tajikistan.html>

18 <https://tj.sputniknews.ru/country/20200426/1031133615/minzdrav-tajikistan-obespokoen-lozhnye-novosti-koronavirus-smi.html>

19 <https://khovar.tj/rus/2020/05/vam-ne-okazyvayut-neobhodimuyu-medsinskuyu-pomoshh-v-aptekah-zavysheny-tseny-na-lekarstva-pozvonite-v-generalnuyu-prokuraturu-tadzhikistana/>

20 <https://coronavirusstat.ru/country/tajikistan/>

21 <https://kvtj.info>

22 <https://rus.ozodi.org/a/30606373.html>

23 Law of the Republic of Tajikistan “On Amendments and Additions to the Code of Administrative Offenses” amend Article 374 part 1: Dissemination of false information using the media, the Internet or other telecommunication networks.

On 26 January 2021, President Rahmon publicly claimed victory over the coronavirus, but called on people to respect preventive measures.²⁴ This statement could exacerbate problems with transparent information about COVID-19. Anecdotal evidence suggests that hospitals refuse to accept patients with Covid 19 symptoms unless they are referred by local health centres, (which often refuse to refer them for treatment), in order to avoid increasing COVID-19 statistics.

RECOMMENDATIONS

- Repeal the July 2020 amendments to the Code of Administrative Offences punishing the distribution of “untruthful” or “inaccurate” information about Covid-19;
- Cease intimidation and harassment of media, journalists and civil society organisations protecting media freedoms; publicly condemn such actions by official bodies and ensure that any such incidents are thoroughly and impartially investigated, and the perpetrators brought to justice.
- Abolish criminal provisions on insult and limit the amount of moral damages that can be awarded in defamation lawsuits.
- Ensure the right of access to information is respected by creating an environment where journalists, civil society activists and citizens are able to collect and disseminate information of public interest (such as elections or public health issues) without persecution, threats and pressure from the authorities and by addressing any practical or administrative obstacles in processing requests for such information and ensuring timely responses to requests, as called for by the UN Human Rights Committee (UN HRC) .²⁵
- Cease the arbitrary blocking of access to websites and mobile phone services and ensure that people have unhindered access to information on- and offline.

Restrictions on the right to freedom of peaceful assembly

Although the Constitution provides for the right to freedom of peaceful assembly, the Government requires individuals to obtain official permission to hold public demonstrations. This requirement is enshrined in the Law on Assemblies (2014) which clearly contradicts international standards. In particular, it requires that the organizers of assemblies obtain permission in advance and contains broadly worded provisions on the grounds for prohibiting assemblies and venues where they cannot be held, for example outside presidential residences and courts. The law does not allow spontaneous assemblies and bans foreign citizens from participating in gatherings.

On 17 May 2020, flood-affected residents of the Khuroson district in the southern Khatlon region blocked the Bokhtar-Dushanbe road for several hours to protest against^[4] the government's failure to provide rapid and efficient disaster relief and to draw the authorities' attention to their difficult situation. The disaster occurred on the night of 14 May, when a powerful mudflow descended on several villages in the Khuroson region, flooding dozens of residential buildings. Two people were killed in the mudslides, houses were destroyed, and damage was caused to the region's agriculture and infrastructure. Residents claimed that only after this protest action did the head of Khatlon region and the deputy prime minister visit the site and assess the situation.^[5] After the protest action the

24 <https://fergana.agency/news/121623/>

25 CCPR/C/TJK/CO/3: Concluding observations on the third periodic report of Tajikistan, adopted on 18 July and published on 22 August 2019, Recommendation 48(g).

authorities of Khuroson reportedly warned local residents about the consequences of participating in new protests and “harsh suppression of the actions of provocateurs.” The Prosecutor’s Office of the Khatlon region subsequently opened a criminal case^[6] against six Khuroson residents for allegedly “inciting mass protests” and “violating public order”.

Human rights defenders in the country report that people are discouraged from participating in peaceful protests due to a fear of reprisals from the state. The authorities use various methods to silence any voices critical of state policies. On 21 January 2021, police in Khujand simulated an incident of public unrest because of power blackouts to demonstrate how riot police might be deployed to put it down. Footage of the training was repeatedly looped on news broadcasts.²⁶

RECOMMENDATIONS

- Adopt and implement best practices on the freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the right to freedom of peaceful assembly and of association in his 2012 annual report, which calls for the practice of simple notification of events being held rather than explicit permission being needed to assemble.
- Issue a public message concerning the right to peacefully assemble and ensure that no state bodies use criminal prosecutions in relation to individuals who are involved in peaceful demonstrations.

Harassment of independent lawyers

The situation for independent lawyers in Tajikistan deteriorated drastically over the reporting period. Authorities use intimidation, harassment, arbitrary arrest, threats and criminal prosecution to pressure lawyers into dropping or refusing politically-sensitive cases. These often include cases related to allegations of torture and ill-treatment as well as those involving individuals associated with the banned IRPT or those charged with religious extremism. In some cases, lawyers working on cases related to individuals associated with the political opposition, including cases involving torture allegations have been charged with national security related offences. In August 2019, the UN HRC raised concerns about intimidation, harassment and criminal prosecutions of lawyers working on politically sensitive cases in Tajikistan and the harassment of their families.²⁷

Since 2014, several human rights lawyers have been detained on politically motivated charges after unfair trials: Buzurgmehr Yorov (see below) and Nuriddin Mahkamov, Dilbar Dodojonova and as well as Shukhrat Kudratov (released), Fakhriddin Zokirov (released) and Jamshed Yorov, who fled the country after release, fearing further persecution. Lawyer Muazzamakhon Kadirova who was acting for Yorov and Mahkamov also fled the country in 2017 after she learned that corruption charges were being prepared against her.

26 <https://vkd.tj/index.php/tj/ruydodho/30367-barguzorii-mash-oi-ta-lim-dar-rvkd-viloyati-su-d>

27 UN Human Rights Committee, Concluding Observations on the third periodic review of Tajikistan, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR%2fC%2fJK%2fCO%2f3&Lang=en

In October 2016 human rights Lawyer Buzurgmehr Yorov who defended 11 high ranking IRPT members, was sentenced to 28 years in prison²⁸ after he was found guilty of crimes against the constitution and fraud in three unfair trials. His defense lawyer Nuriddin Mahkamov was sentenced to 21 years in prison.²⁹ In 2019, the UN Working Group on Arbitrary Detention found that Yorov's detention violated international law.³⁰

The late human rights lawyer Fayzinisso Vohidova was prevented from leaving Tajikistan in May 2017 after publicly appealing to President Rahmon to cease persecuting Yorov. She died in January 2019 of pneumonia.

2015 legal amendments to the Law on Lawyers (Advokatura) increased executive control over the judiciary by requiring all lawyers to renew their licenses to practice law with a Qualifying Commission, under the Ministry of Justice. The reform had a negative impact on the legal profession as lawyers who were working on cases perceived as sensitive by the government often did not receive new licenses. The number of licensed lawyers dropped dramatically after the law was introduced, from 1200 in 2015 to 600 in 2017. In August 2019 the UN HRC stated concern at 'the insufficient number of lawyers currently practicing in the country (a ratio of 1:13,000) '.

RECOMMENDATIONS

- Comply with UN WGAD recommendations and release Buzurgmehr Yorov immediately and unconditionally as well as all other lawyers targeted and imprisoned for carrying out their professional duties in cases the authorities consider politically sensitive.
- Undertake a full investigation into the circumstances of Yorov's and Mahkamov's detentions and the allegations of torture and ill-treatment and bring those responsible for violations of their human rights to justice.
- Promptly, thoroughly and impartially investigate all allegations of intimidation, harassment and other violations of the rights of lawyers and hold those responsible accountable.
- Respect the UN basic principles on the Role of Lawyers that stipulate: "governments shall ensure that lawyers ... are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference" (principle 16), and "lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions" (principle 18).

28 On 26 November 2019, his sentence was shortened by six years.

29 <https://www.iphronline.org/persecution-of-independent-lawyers-in-tajikistan.html>

30 https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session84/A_HRC_WGAD_2019_17.pdf