



THE SITUATION OF HUMAN RIGHTS DEFENDERS

TAJIKISTAN

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In its last Universal Periodic Review (UPR) in October 2011, Tajikistan accepted six out of seven recommendations related to freedom of expression and freedom of the press. Tajikistan also received recommendations in relation to the negative impact of national laws on freedom of religion and women's rights. However, the current situation on the ground indicates a clear disconnect between commitments made during the UPR and the operating environment within which human rights defenders (HRDs) undertake their vital work. Women HRDs and members of religious minorities continue to be subject to human rights violations. Despite the Tajik authorities' commitments, a Public Council including civil society has not been appointed to date.

RISKS FACING HUMAN RIGHTS DEFENDERS

- In Tajikistan, human rights defenders, in particular political activists and journalists, continue to be harassed and threatened by the government.¹ As reported by Freedom House, despite the fact that defamation and libel were decriminalised in 2012, insulting the President or an official remains a crime under the criminal code.²
- The widespread use of torture by Tajik officials to obtain confessions remains a critical issue, along with the general of impunity surrounding those practices. According to information gathered by Amnesty international, 24 cases of torture occurred between December 2013 and October 2014.³ Officials involved in such acts are rarely prosecuted and in half of the cases they were only suspended for a short time.⁴
- Prisoners, including political prisoners, are often denied access to legal counsel in pre-trial custody. In addition, NGO representatives have denounced arbitrary denial of access to detention facilities.⁵
- Enforced disappearance is also widespread, as reported by Human Rights Watch (HRW). In June 2014, Alexander Sodiqov, a Tajik student from the University of Toronto was detained for conducting an interview in the autonomous republic of Gorno-Badakhshan with activist Alim Sherzamonov, leader of the May anti-government protests. Sodiqov's family was not informed about

his custody and he was denied access to a lawyer.⁶ Following a successful international campaign, he was released and authorised to leave the country with his family.⁷ HRW also reported evidence of several foreign and Tajik scholars being subject to harassment and intimidation from the national security services.⁸

- Journalists are subject to threats from officials, resulting in a high level of self-censorship and poor training, as outlined by Freedom House⁹ and International Research & Exchanges.¹⁰ In 2013 and 2014, 15 lawsuits were commenced against journalists for defamation and fraud.¹¹

RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- According to HRW, Tajik authorities tend to severely restrict freedom of expression and access to critical information, by using technical obstacles.¹² According to International Research & Exchanges, Internet is controlled by the State and 200 websites are currently blocked in the country. In addition, Parliament recently amended the Law on Legal Status of Emergency Situations with the purpose or effect of increasing control of Internet access and mobile communications by the authorities (who are allowed to completely block the access in case of unrest in the country).¹³
- The government seeks to restrict the freedom of association and assembly by imposing technical constraints for members of NGOs, who face

regular pressure from the authorities. HRW reports an increase of unannounced inspection of NGOs by local authorities, being followed by legal actions because of alleged breaches of the laws.¹⁴ In 2013, a local NGO representing the rights of military recruits, Amparo, was dissolved because local authorities argued that legal obligations regarding the change of the address were not fulfilled.¹⁵ Human rights organisations denounced this arbitrary decision, intended to limit the scope of action of human rights defenders.

- Approval of the local authorities is required for organising public demonstrations. In most cases, as Freedom House reports, permission is refused.¹⁶
- NGOs have to register with the Ministry of Justice, increasing their vulnerability to control. Recently, amendments to the national law 'on public associations' adopted by the government drastically reduced freedom of association and increase control by public authorities.¹⁷ Under the pretext of fighting terrorism, the draft law requires registration of all foreign grants received by NGOs. Article 19 adds that those grants have to be recorded into a 'Special Journal of Humanitarian Aid'.¹⁸
- In December 2014, the Tajik government led a consultation with members of civil society to discuss the new amendments to the Association law.¹⁹ Representatives of local NGOs took the opportunity to submit recommendations but to date, no changes have been made on the first draft and Tajikistan's upper house of parliament adopted the amendments on the 21 July 2015.²⁰ In June 2015, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association stressed that these amendments contradict the State's obligation to create an enabling environment for HRDs and asked the President to veto the amendments.²¹

INTIMIDATION AND REPRISALS AGAINST DEFENDERS ACCESSING INTERNATIONAL HUMAN RIGHTS MECHANISMS

- In October 2012, the arbitrary decision to close an NGO known as 'Amparo' occurred after Tajikistan was accused of failing to address torture cases by a representative of the NGO during a UN funding conference.²² The Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association also expressed his deep concern about the irregularities arising around the decision of closing 'Amparo'.²³

HUMAN RIGHTS DEFENDERS FACING PARTICULAR RISKS

- Despite article 30 of the Constitution stating that 'each person is guaranteed the freedoms of speech and the press',²⁴ journalists and members of civil society face difficulties and restrictions in their daily work though intimidation, denial of accreditation and technical obstructions.²⁵
- Political opponents are muzzled and subject to intimidation and threats. HRW writes that Zaid Saidov, member of a newly created opposition party, was convicted in December 2013 for five criminal charges including for bribery and abuse of power and condemned to a 26-years jail sentence.²⁶
- Despite the adoption of a law by the Parliament to prevent domestic violence on December 2012,²⁷ violence against women, including women HRDs, remains a serious issue in Tajikistan.
- Due to religious and traditional beliefs rooted in Tajik society, lesbian, gay, bisexual, transgender and intersex people (LGBTI) are subjected to a high level of discrimination and threats in relation to their sexual orientation and gender identity, primarily from the police and public authorities, as described by Global Voices.²⁸

THE RESPONSE OF THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- Tajikistan repeatedly denies independent UN bodies access to detention centres. To date, the government has not ratified the Optional Protocol to the Convention against Torture, which would allow for a joint UN and government-approved mechanism of prison inspections.²⁹
- Following recommendations addressed to Tajikistan, the Ministry of Justice proposed draft amendments to the Law on Public Association but as the Centre for Civil and Political Rights stressed, the new amendments restrict the space within which NGOs operate by requiring the registration of all foreign grants.³⁰ In addition, members of civil society were not included in the preparation of the amendments; a consultation was led by the Ministry of Justice with representatives of civil society but none of the resulting recommendations were included into the amendments, to date.³¹
- In 2014, the establishment of a Public Council that would include civil society members was decided and announced by the Tajik's authorities for addressing human rights violations but, to date, this body has not been appointed.³²

RECOMMENDATIONS TO THE GOVERNMENTS OF TAJIKISTAN

- Amend the Law on Public Association to ensure its compatibility with international human rights laws, with active involvement, consultation and participation of civil society. In particular, amend the requirement that foreign grants must be registered for all local NGOs and respect the right of NGOs and HRDs to access and utilise resources, including funding from foreign sources, without discrimination or unreasonable restriction.
- Release all arbitrary detained political opposition figures, including Zaid Saidov.
- Authorise the operation of human rights organisations in Tajikistan, including that of Amparo, without any reservation and conditions and stop unscheduled and unjustified inspections of NGOs.
- Combat impunity, primarily by ensuring prompt and transparent investigations of all violations against HRDs and prisoners, including alleged cases of torture and ill-treatment, and ensure the effective prosecution of perpetrators.
- Strengthen and increase communications and cooperation with the UN, including in relation to individual cases, by responding promptly and substantively to allegation letters and urgent appeals by Special Procedures mandate holders.
- Remove articles 137 and 330 from the Tajik Criminal Code, which criminalise insults and defamation against the President or representatives of authorities.
- Repeal laws that limit the rights of women, and ensure the protection of women human rights defenders and those working on issues of sexual orientation and gender identity.
- Ensure the independence of the judicial system and cease persecuting lawyers due to their professional activities, including their advocacy in defence of human rights.

1. <https://www.amnesty.org/en/documents/pol10/0001/2015/en/> (p.361)

2. <https://freedomhouse.org/report/nations-transit/2014/tajikistan#.VcoN-fkXQQ7B>

3. <https://www.amnesty.org/en/documents/pol10/0001/2015/en/> (p.360)

4. Ibid.

5. <https://www.hrw.org/report/2014/06/25/we-suffered-when-we-came-here/rights-violations-linked-resettlements-tajikistans>

6. <https://www.hrw.org/news/2014/06/19/tajikistan-free-or-charge-researcher>

7. http://www.hrw.org/sites/default/files/wr2015_web.pdf

8. http://www.hrw.org/sites/default/files/related_material/tajikistan_2.pdf

9. <https://freedomhouse.org/report/nations-transit/2014/tajikistan#.VcoN-fkXQQ7B>

10. http://www.irex.org/sites/default/files/u105/EE_MSI_2015_Tajikistan.pdf

11. <https://www.amnesty.org/en/documents/pol10/0001/2015/en/> (p.360)

12. Ibid.

13. http://www.irex.org/sites/default/files/u105/EE_MSI_2015_Tajikistan.pdf (p. 279)

14. <https://www.amnesty.org/en/documents/pol10/0001/2015/en/> (p. 360)

15. <https://www.fidh.org/International-Federation-for-Human-Rights/eastern-europe-central-asia/tajikistan/Tajikistan-Closure-of-the-NGO-12421>

16. <https://freedomhouse.org/report/freedom-world/2014/tajikistan#.Vc-mz60XQQ7C>

17. <https://freedomhouse.org/report/freedom-world/2014/tajikistan#.Vc-mz60XQQ7C>

18. <https://www.article19.org/resources.php/resource/37793/en/cen->

[tral-asia:-draft-amendments-to-the-legislation-regulating-the-activities-of-ngos-should-guarantee-freedom-of-association](#)

19. <http://www.ccprcentre.org/doc/2015/04/International-Partnership-for-Human-Rights.pdf>

20. <http://news.tj/en/news/ohchr-amendments-tajik-law-public-associations-could-negatively-affect-work-ngos>

21. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16288&LangID=E>

22. <http://www.eurasianet.org/node/66112>

23. <http://freeassembly.net/rapporteurreports/tajikistan-communications/>

24. <http://www.icnl.org/research/monitor/tajikistan.html>

25. <https://cpj.org/2014/02/attacks-on-the-press-in-2013-tajikistan.php>

26. <https://www.hrw.org/news/2014/02/07/tajikistan-long-sentence-blow-free-expression>

27. <http://www.unwomen.org/en/news/stories/2013/3/tajikistan-moves-towards-a-law-to-prevent-domestic-violence>

28. <https://globalvoicesonline.org/2013/01/20/tajikistan-remains-hell-for-gays/>

29. <https://freedomhouse.org/report/nations-transit/2014/tajikistan#.VdG-joM7QQ7C>

30. <http://www.ccprcentre.org/doc/2015/04/International-Partnership-for-Human-Rights.pdf>

31. <http://news.tj/en/news/ohchr-amendments-tajik-law-public-associations-could-negatively-affect-work-ngos>

32. http://www.irex.org/sites/default/files/u105/EE_MSI_2015_Tajikistan.pdf

ABOUT THIS BRIEFING PAPER

ISHR encourages States to consult UPR submissions by local activists as well as to make a recommendation to Tajikistan regarding the protection of HRDs. For further information on this briefing paper, contact Sophie Charpié (s.charpie@ishr.ch).

For more information about our work, or any of the issues covered in this publication, please visit our website:

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