

Introduction

1. This document has been prepared by Nota Bene and International Partnership for Human Rights as a contribution to the second Universal Periodic Review of Tajikistan. It summarizes major issues and provides recommendations to Tajikistani authorities in the following areas: freedom of expression and the media; freedom of association and assembly; freedom of religion and belief; and the abolition of the death penalty. The document has been prepared by the two organizations in the framework of a project on promoting respect for fundamental rights in Central Asia.

Freedom of expression and the media

1. The situation with respect to freedom of expression and the media remains highly problematic in Tajikistan. Media and journalists face intimidation and harassment because of critical reporting, and self-censorship is common among the country's media outlets, many of which are struggling financially and therefore are in a particularly vulnerable situation.
2. While libel generally was de-criminalized in 2012, insulting the president and government officials is still subject to criminal liability, which has a chilling impact on freedom of expression. Civil defamation and other lawsuits continue to be used by government officials and other public figures as a form of retaliation against media and journalists.
3. In a high-profile case from 2014, the well-known independent Asia Plus newspaper and one of its editors were convicted of defaming the country's "intelligentsia" and ordered to pay 30 000 somoni (some 4500 EUR) in moral damages. The lawsuit in this case concerned an article that criticized a former government opponent for flattering and praising Tajikistan's president after returning to the country. It was supported by five state-funded bodies.
4. New regulations introduced in June 2015 provide for restrictions on access to information of media. These regulations require government agencies to send their communications and press releases to the Khovar state information agency, while other media outlets can only report on official events citing this agency. Media representatives are concerned that the regulations will be used to deprive them of the opportunity to obtain first-hand information about official events.
5. Arbitrary blocking of websites has become a regular occurrence in Tajikistan in the last few years. Such measures have targeted news sites, social media sites and other online resources. The most extensive blocking to date took place in October 2014, when hundreds of websites suddenly became unavailable after an opposition group made online calls for holding an anti-government rally in the capital Dushanbe (which eventually did not take place).
6. According to various Internet service providers, websites are blocked on the basis of informal orders from the government's Communications Service, although this agency has consistently denied responsibility and referred to "technical problems" experienced by providers.
7. The pattern of repeated blocking of websites has been criticized by both civil society¹ and the international community. The OSCE Representative on the Freedom of the Media has described it as "a worrying and disturbing trend" and reminded the authorities that they "have a responsibility to ensure that all citizens of Tajikistan have unhindered access to information, offline and online".²

8. Mobile phone services have also repeatedly stopped functioning without explanation in connection with particular events. During and after a special security operation conducted in the Gorno-Badakhshan Autonomous Province in the summer of 2012, mobile, landline and internet connections in this region were disconnected for almost a month.³ In connection with the planned anti-government rally in Dushanbe in October 2014, access to text messaging services was blocked almost for 24 hours. Most recently, in connection with armed attacks that took place in and near the capital in September 2015, mobile phone users did not have access to such services for 10 days.
9. Amendments to the Law on the Legal Regime on the State of Emergency adopted in 2014 grant authorities broad powers to limit and prohibit mobile and internet services, as well as to impose other restrictions on media in emergency situations.

Recommendations

- a) Publicly welcome and encourage open debate on issues of public interest; and refrain from restricting access to information about official events and other developments of public interest.
- b) Condemn intimidation and harassment of media and journalists; and ensure that any such incidents are thoroughly and impartially investigated and the perpetrators brought to justice.
- c) Abolish the remaining criminal provisions on insult and limit the amount of moral damages that can be awarded in defamation lawsuits.
- d) Put an end to the practice of arbitrary blocking of access to websites and mobile phone services and ensure that residents have unhindered access to information on- and offline.

Freedom of association and assembly

A new phase of pressure on civil society

1. The Tajikistani government has increasingly limited freedom of association and exerted pressure on human rights defenders since 2012⁴. In 2015, the situation of civil society in the country, in particular that of NGOs working on human rights and other sensitive issues has seriously worsened.
2. In August 2015, the president signed amendments to the Law on Public Associations. These amendments oblige NGOs to provide the Ministry of Justice with information about funds received from international sources, prior to using them, for inclusion in a special registry on humanitarian assistance. The new provisions fail to set out a clear procedure for informing the government about grants and for including this information in the registry.
3. Civil society organizations have expressed concern that the new provisions will place an additional, unnecessary administrative burden on NGOs and that they may be used to obstruct the access to funding of NGOs in violation of the right to freedom of association, as protected by international human rights standards.⁵ The UN special rapporteur on freedom of peaceful assembly and of association⁶, as well as other UN human rights bodies have also criticized the new provisions.
4. In addition to the provisions described above, the recent amendments to the Law on Public Associations state that the Ministry of Justice will approve a procedure for conducting inspections of the activities of NGOs. This provision is welcomed by civil society, as current

legislation does not regulate the conduct of inspections of NGOs. However, to date the government has failed to initiate an inclusive and transparent process for developing such a procedure.

5. Since the last UPR of Tajikistan in 2011, numerous NGOs have been singled out for intrusive inspections of their activities by the Tax Committee and security agencies, in some cases resulting in warnings and sanctions. This trend has intensified in 2015.
6. In the last few months, a number of NGOs have reported being subjected to inspections conducted with reference to national security considerations. In some cases, these inspections have had a formal character and been carried out by the Tax Committee. In other cases, they have been limited to informal visits by representatives of the State Committee on National Security.
7. In 2013-2015, at least three human rights NGOs were closed down on the basis of court orders, and currently several NGOs are facing closure for the alleged failure to comply with administrative and technical requirements.
8. In general, as the government has stepped up efforts to fight extremism and terrorism and harassment of political opposition groups has increased (see more below), the environment for human rights defenders has significantly deteriorated. Activists, lawyers and journalists are under pressure from the government to drop or refrain from addressing specific politically sensitive issues. Recent developments, which pose a serious threat to the existence of a free and independent civil society in the country, have resulted in a high sense of insecurity among affected individuals and groups.

Restrictions on freedom of assembly

9. The new Law on Assemblies adopted in late 2014 restricts the right to hold peaceful assemblies in ways that are not compatible with 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 the venues in which their conduct is limited. The law also does not provide for spontaneous assemblies and bans foreign citizens from participating in gatherings. The adoption of the new Law on Assemblies came at a time when authorities appear to be increasingly concerned about possible mass protests.

Harassment of the political opposition

10. In the recent period, pressure on the political opposition has increased in Tajikistan. This has in particular affected the Islamic Renaissance Party of Tajikistan (IRPT), a moderate Islamic party and the country's largest opposition party. The IRPT faced obstruction when campaigning for the parliamentary elections held on 1 March 2015, in which it fell out from the parliament, and the party and its members have been subjected to smear campaigns and other forms of harassment.
11. Currently, the IRPT is facing closure and its leading member are under arrest or in exile. On 28 August 2015, the Ministry of Justice warned the party that its activities are "illegal"⁷ because it no longer meets the requirement for political parties to have branches in a majority of the country's cities and districts and it unlawfully carries out "religious propaganda". On 17 September 2015, the General-Prosecutor's Office announced that 13 IRPT members had been arrested on a series of charges related to armed attacks that took place in and near Dushanbe

on 4 September 2015.⁸ The party leader, who is in exile, has categorically denied that he or his party has anything to do with those developments.⁹

Recommendations

- a) Bring the provisions of the Law on Public Associations and other national laws affecting NGOs into compliance with international human rights standards, and ensure in particular that provisions concerning the oversight and inspections of NGOs, as well as the suspension and liquidation of NGOs are clear, unambiguous and fully consistent with the requirements of international law.
- b) Ensure that NGOs are not subject to undue restrictions on their activities and funding and that no NGO is closed down on arbitrary grounds.
- c) Amend the Law on Assemblies to ensure that it fully safeguards the right to freedom of peaceful assembly, and promote conditions in which this right can be freely exercised.
- d) Ensure that political opposition parties can operate without hindrance or harassment.

Freedom of Religion

1. The authorities continue to strictly control the practice of religion and have recently stepped up efforts to counter so-called non-traditional religious beliefs, in particular forms of Islam that are considered “alien” to the country. The Hanafi school of Islam is being heavily promoted, to the detriment of other schools of Islam.
2. The 2009 The Law on Freedom of Conscience and Religious Associations bans the activities of unregistered religious organizations and imposes serious restrictions on the operation of places of worship, the preparation and distribution of religious literature, the organization of religious education and other religious activities.
3. With reference to the Religion Law, over 1000 unofficial mosques were closed down only in the first six months of 2015, according to information from the General-Prosecutor’s Office.¹⁰
4. The production, import and distribution of written, audio or video material of religious content requires permission of the State Committee on Religious Affairs. Material deemed inappropriate is confiscated.
5. The 2011 Law on the Responsibility of Parents for the Education and Upbringing of Children obliges parents to prohibit under-age children from participating in the activities of religious organizations, participate in religious education held by institutions or individuals without a state license and study at religious schools abroad without permission by the authorities. Parents who have been found to have violated their obligations under this law have been fined.
6. There are concerns that efforts by authorities to counteract expressions of Islam that are considered contrary to national tradition have resulted in violations of the right to freedom of religion or belief and other rights. For example, in spring 2015, there were reports of law enforcement raids on retailers deemed to be selling “inappropriate” Muslim clothing, as well as of cases where law enforcement officials forcibly shaved bearded Muslim men. Representatives of the law enforcement authorities said that any complaints regarding unlawful actions will be investigated,¹¹ but only few cases are believed to have been reported to police.

Recommendations

- a) As called for by the UN Human Rights Committee, repeal or amend all provisions of the Law on Freedom of Conscience and Religious Associations, the Law on the Responsibility of Parents for the Education and Upbringing of Children and other national laws that impose disproportionate restrictions on the rights protected by article 18 of the ICCPR.
- b) Refrain from measures infringing the right to freedom of religion or belief and other fundamental rights in the name of counteracting “non-traditional” religious beliefs.

The right to life and abolition of the death penalty

1. A moratorium on death sentences and executions has been in force since 2004. At the UPR in 2011, several states recommended Tajikistan to ratify the Second Optional Protocol (OP2) to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of death penalty. In the 2013 National Plan for the implementation of the UPR recommendations, the government set out to initiate national-level proceedings to ratify this protocol. However, to date, the OP2 has not been ratified and the death penalty has not been abolished.
2. In April 2013, President Rahmon stated in his annual speech to the parliament that “it was time” to make a final decision on the death penalty and called on the relevant authorities to consider the issue, taking into account public opinion.
3. It should be noted that opinion polls show that most residents support the abolition of the death penalty. In a survey carried out by Nota Bene in 2013¹², in which over 2000 people from across Tajikistan were interviewed on the basis of random sampling, 67% of those polled were against the death penalty.
4. Shortly after the president’s speech, in June 2013, a new government working group was set up to consider the abolition of the death penalty and the ratification of the OP2. This working group replaced a previous one from 2010. This time civil society representatives were also invited as members. Currently the work of the group continues.
5. It remains of concern that information about the places of burials of individuals who were sentenced to death and executed prior to the introduction of the current moratorium is withheld from relatives.
6. Another major concern are the harsh detention conditions of those who are serving life-time sentences without the possibility of parole, which is the alternative used to the death penalty. Following his Tajikistan mission in 2012, the UN Special Rapporteur on torture expressed serious concern about the treatment of prisoners serving life sentences, including being held in complete isolation most of the time, physical and verbal abuse, excessive restrictions on contacts with family and lawyers, and lack of appropriate health care.¹³

Recommendations

- a) Abolish the death penalty and ratify the second Optional Protocol to the ICCPR.
- b) Inform relatives of individuals who were executed prior to the current moratorium about the places of burial of these.
- c) Improve conditions for prisoners serving life sentences and abolish excessive limitations on their access to family, lawyers and health care.

¹ See statement “Stop blocking websites in Tajikistan!”, 20 October 2014, at <http://www.iphronline.org/tajikistan-internet-statement-20141020.html>

² “Repeated blocking of websites in Tajikistan a worrying trend, says OSCE media freedom representative”, 7 October 2014, at <http://www.osce.org/fom/125218>

³ See report of the Civic Solidarity Platform, *Monitoring of Observance of Human Rights in Connection with the Special Operation Conducted on 24 July 2012 in Khorog, Tajikistan*, at http://civicsolidarity.org/sites/default/files/monitoring_report_en_final.pdf

⁴ For more information, see alternative report to the Human Rights Committee by a coalition of Tajikistani NGOs from 2013, at http://www2.ohchr.org/English/bodies/hrc/docs/NGOs/NGOsCoalition_Tajikistan_En.pdf

⁵ See appeal signed by 92 Tajikistani and foreign organizations in November 2014, “Tajikistan: Drop draft legislation restricting access to NGO funding”, <http://www.iphronline.org/tajikistan-ngo-law-appeal-20141125.html>

⁶ UN Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai sent a communication to the Tajikistani government about the draft amendments to the Law on Public Associations in December 2014. See addendum to his report to the Human Rights Council in June 2015 on Observations on communications transmitted to Governments and replies received (A/HRC/29/25/Add.3), at <http://freeassembly.net/wp-content/uploads/2015/06/Communications-report-2015.pdf>

⁷ The warning is available here (in Russian):

<http://www.khovar.tj/rus/content/%D0%BC%D0%B8%D0%BD%D0%B8%D1%81%D1%82%D0%B5%D1%80%D1%81%D1%82%D0%B2%D0%BE-%D1%8E%D1%81%D1%82%D0%B8%D1%86%D0%B8%D0%B8-%C2%AB%D0%BF%D0%B0%D1%80%D1%82%D0%B8%D1%8F-%D0%B8%D1%81%D0%BB%D0%B0%D0%BC%D1%81%D0%BA%D0%BE%D0%B3%D0%BE-%D0%B2%D0%BE%D0%B7%D1%80%D0%BE%D0%B6%D0%B4%D0%B5%D0%BD%D0%B8%D1%8F-%D1%82%D0%B0%D0%B4%D0%B6%D0%B8%D0%BA%D0%B8%D1%81%D1%82%D0%B0%D0%BD%D0%B0-%D0%B1%D0%BE%D0%BB%D1%8C%D1%88%D0%B5-%D0%BD%D0%B5-%D1%8F%D0%B2%D0%BB%D1%8F%D0%B5%D1%82%D1%81%D1%8F>

⁸ See official statement by the General Prosecutor of Tajikistan (in Russian) published by the state Khovar news agency on 17 September 2015, at

<http://www.khovar.tj/rus/content/%D0%BE%D1%84%D0%B8%D1%86%D0%B8%D0%B0%D0%BB%D1%8C%D0%BD%D0%BE%D0%B5-%D0%B7%D0%B0%D1%8F%D0%B2%D0%BB%D0%B5%D0%BD%D0%B8%D0%B5-%D0%B3%D0%B5%D0%BD%D0%B5%D1%80%D0%B0%D0%BB%D1%8C%D0%BD%D0%BE%D0%B9-%D0%BF%D1%80%D0%BE%D0%BA%D1%83%D1%80%D0%B0%D1%82%D1%83%D1%80%D1%8B-%D1%80%D0%B5%D1%81%D0%BF%D1%83%D0%B1%D0%BB%D0%B8%D0%BA%D0%B8-%D1%82%D0%B0%D0%B4%D0%B6%D0%B8%D0%BA%D0%B8%D1%81%D1%82%D0%B0%D0%BD>

⁹ See “Tajikistan reportedly turns to Interpol over IRP leader”, 18 September 2015, at <http://news.tj/en/news/tajikistan-reportedly-turns-interpol-over-irp-leader>

¹⁰ See “За шесть месяцев в Таджикистане закрыто свыше 1 тыс. мечетей”, 31 July 2015, at <http://news.tj/ru/news/za-shest-mesyatsev-v-tadzhikistane-zakryto-svyshe-1-tys-mechetei>

¹¹ “МВД Таджикистана отрицает наличие приказа о принудительном бритье бород”, 21 April 2015, at <http://www.regnum.ru/news/polit/1917549.html#ixzz3a8ESuDCC>

¹² See *Death Penalty: Sociological Survey of Public Opinion on the Abolition of the Death Penalty in the Republic of Tajikistan*, available at http://www.penalreform.org/wp-content/uploads/2014/04/Death-Penalty_Sociological-survey_Tajikistan-March-2014.pdf

¹³ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Tajikistan (A/HRC/22/53/Add.1), 2013, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add1_sp.pdf