



## **Universal Periodic Review of Tajikistan: Key Fundamental Rights Issues and Recommendations\***

### **Restrictions on freedom of expression and the media**

Media and journalists face intimidation and harassment because of critical reporting, and self-censorship is common. The government recently proposed amendments to media legislation, introducing broad grounds for suspending and closing down media outlets. Following an outcry by the journalist community, the amendments were sent for additional revision. While libel was de-criminalized in 2012, insulting the president and government officials is still criminalized, which has a chilling impact on freedom of expression. Defamation lawsuits have been used by public figures as a form of retaliation against outspoken media and journalists. New regulations adopted last year restrict access to information about government affairs, and arbitrary blocking of news, social media and other websites, as well as cell phone services is a regular occurrence. Providers have reported implementing such measures in response to informal orders from the government's Communications Service, although this agency has publicly denied responsibility. Recent legislation grants law enforcement authorities broad powers to limit internet and cell phone services during anti-terrorism and security operations, without any court decision.

Following his March 2016 visit to Tajikistan, the UN Special Rapporteur on the right to freedom of opinion and expression expressed serious concerns about the current climate for free expression in the country. He noted that protections for this right "are eroding" as the government "punishes dissent, limits access to alternative voices in the media and online, and shrinks the space for civil society."<sup>1</sup>

### ***Recommendations***

- Publicly welcome open debate on issues of public interest; and refrain from restricting access to information on such issues.
- Thoroughly and impartially investigate any incidents of intimidation and harassment of media and journalists and hold those responsible accountable.
- Ensure that any new media legislation is compatible with international standards and does not allow for the suspension or closure of media outlets on arbitrary grounds.
- Abolish the remaining Criminal Code provisions on insult and limit the amount of moral damages that can be awarded in defamation lawsuits.
- Put an end to arbitrary blocking of websites and cell phone services; and ensure that any measure to limit access is strictly necessary and proportionate, sanctioned by court and subject to appeal.
- Take concrete measures to implement the recommendations resulting from the recent visit to Tajikistan of the UN Special Rapporteur on the right to freedom of opinion and expression.

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\* This is an overview of key issues and recommendations from a submission prepared by Nota Bene (Tajikistan) and International Partnership for Human Rights (Belgium) for the second Universal Periodic Review of Tajikistan. It also includes brief relevant updates on developments since the submission was finalized in September 2015.

## **Worsening civil society situation**

Recently the civil society environment has seriously worsened, as the authorities have stepped up efforts to stifle criticism in the name of ensuring national security and stability. Activists and lawyers working on human rights and other sensitive issues have faced pressure, and NGOs have been subjected to intrusive and intimidating inspections of their activities. A number of NGOs have been warned, fined and even closed down by court for alleged violations of administrative and technical requirements, under broadly worded provisions on NGO activities. New legislation adopted in 2015 requires NGOs to report information about foreign grants received, prior to using them, for inclusion in a special state registry. Both civil society and UN human rights bodies have expressed concern that this requirement does not only place an additional administrative burden on NGOs, but may also be used to obstruct access to funding in violation of international standards. Implementing rules recently proposed provide for a 10-day timeline for NGOs to report funds after receiving them, but do not clarify if funds can be used before the registration has been finalized. In a worrying pattern, several lawyers defending clients in high-profile cases have been arrested and criminally charged. At the same time, new legislation on the practice of law adopted in 2015 is threatening the independence of the legal profession by requiring both new and practicing lawyers to undergo certification and regular re-attestation with a non-independent body.

### ***Recommendations***

- Refrain from exploiting national security concerns to intimidate NGOs, activists and lawyers.
- Bring national legislation affecting NGOs, in particular provisions on the oversight, inspections and sanctions of NGOs into full compliance with the requirements of international human rights law.
- Ensure that NGOs are not subject to undue and disproportionate restrictions on their activities and funding, and that NGOs are not arbitrarily closed down in violation of international standards.
- Ensure that no lawyer is arrested, charged or imprisoned in retaliation for his or her work and promptly release those held on such grounds.
- Revise the new legislation on the practice of law to ensure it safeguards the independence of the legal profession in accordance with international standards.

## **Violations on freedom of religion**

The authorities strictly control the practice of religion and seek to counteract so-called non-traditional religious beliefs. Legislation in force 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. Parents have a legal responsibility to prevent their children from participating in religious services and non-state licensed religious education; individuals found to have failed to do so have been fined. In the context of efforts to fight religious expressions considered “alien” to Tajikistan, law enforcement officials have reportedly carried out raids on retailers selling “inappropriate” Muslim clothing and forcibly shaved bearded men.

### ***Recommendations***

- As called for by the UN Human Rights Committee, repeal or amend all provisions of national law that impose disproportionate restrictions on the right to freedom of religion or belief.

- 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.

### **Failure to fully abolish the death penalty**

A moratorium on death sentences and executions has been in force since 2004. However, to date, the authorities have failed to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of death penalty. A government working group established in 2013 to consider these issues continues its work. It remains of concern that information about the places of burials of those who were executed prior to the introduction of the moratorium is withheld from relatives, as well as that those serving alternative life sentences are held in harsh detention conditions. Following a 2012 mission to Tajikistan, the UN Special Rapporteur on torture raised alarm about abusive treatment and excessive restrictions on access to family, lawyers and health care of these detainees.

### ***Recommendations***

- Ratify the Second Optional Protocol to the ICCPR and abolish the death penalty.
- Inform relatives of individuals who were executed prior to the current moratorium about the places of burial of these.
- Improve conditions for prisoners serving life sentences and abolish excessive restrictions on their access to family, lawyers and health care.

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<sup>1</sup> See “UN rights expert alarmed by increasing restrictions on opposition, NGOs and the media in Tajikistan,” 9 March 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17197&LangID=E>