



# **TAJIKISTAN**

## **AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW 39TH SESSION OF THE UPR WORKING GROUP, 1-12 NOVEMBER 2021**

### **FOLLOW UP TO THE PREVIOUS REVIEW**

1. In its second Universal Periodic Review (UPR) in May 2016, Tajikistan received a total of 203 recommendations.<sup>1</sup> Of these it accepted 153 recommendations, and partially accepted a further five. Forty-five recommendations were noted.
2. Disappointingly the government rejected recommendations to ratify the Optional Protocol to the Convention against Torture and set up a National Preventive Mechanism. Tajikistan accepted recommendations on the improvement of conditions and safeguards for detainees and prisoners. Tajikistan has continued to insist that its detention facilities already meet international standards, and that detainees and prisoners have adequate access to complaint mechanisms. However, UN human rights mechanisms, as well as the OSCE and EU, and numerous non-governmental organisations, including Amnesty International, have raised serious concerns about cruel, inhuman and degrading conditions of detention, the endemic use of torture in pre-trial and post-conviction detention facilities, and the lack of effective independent monitoring mechanisms.
3. Tajikistan stated, however, that they had accepted recommendations to ratify the Second Optional Protocol to the ICCPR and to fully abolish the death penalty.<sup>2</sup> They have held consultations with civil society and international partners on the practicalities of abolishing the death penalty but, to date they have made little progress towards ratification.

### **THE NATIONAL HUMAN RIGHTS FRAMEWORK**

#### **DOMESTIC LEGISLATION**

4. Amnesty International welcomes steps taken by the authorities in Tajikistan, in the period under review, to address some of the concerns raised by UN human rights mechanisms, including measures taken to strengthen the prevention of torture and ill-treatment and improve access to justice for survivors of domestic and gender-based violence.
5. In May 2016, legal safeguards against torture and other ill-treatment of detainees were strengthened. These included: reducing the maximum length of time a person can be held in detention without charge to

three days; defining detention as starting from the moment of de facto deprivation of liberty; giving detainees the right to confidential access to a lawyer from the moment of deprivation of liberty; and making medical examinations of suspects obligatory prior to placing them in temporary detention.

6. In April 2019, the government adopted a programme of judicial and legal reforms to further strengthen legal safeguards to protect those deprived of liberty, including the right to legal defence. In practice, however, law enforcement officers continued to obstruct access to defence lawyers.
7. In a positive development, the government adopted a new strategy to reform the criminal justice system in June 2020.<sup>3</sup> As part of the strategy, an Action Plan (2021-2025) which provides for independent monitoring of detention facilities was adopted on 21 February 2021.
8. Women and LGBTI survivors of domestic violence continue to face many challenges in accessing justice in Tajikistan. A 2013 law on domestic violence has allowed for survivors to report abuse to law enforcement officers but has not mandated that the relevant agencies take appropriate steps to investigate complaints, issue protection orders, and open a criminal case. Specialist police officers trained in domestic violence, most of them women, have been assigned to a small number of police stations.
9. Domestic violence has not been classified as a separate offence in the Criminal Code and the systematic failure of the authorities to ensure that those responsible for gender-based violence are prosecuted has resulted in ongoing impunity for perpetrators.<sup>4</sup>
10. In a positive development, the new draft of the Criminal Code, currently going through parliament, contains an article specifically punishing domestic violence. It fails, however, to cover all types of violence as recommended by the UN Committee against Torture (CAT)<sup>5</sup> and the Committee for the Elimination of Discrimination Against Women (CEDAW) in 2018, notably psychological violence, marital rape and sexual assault.<sup>6</sup>

## THE HUMAN RIGHTS SITUATION ON THE GROUND

### FREEDOM OF EXPRESSION, ASSOCIATION AND THE MEDIA

11. The authorities in Tajikistan have prioritized the protection of stability and traditional values over the respect for fundamental human rights in all spheres of public life on a near-daily basis for the past five years. They invoke national security and the fight against terrorism to justify increasingly harsh restrictions on freedoms of expression, association, and the media, and to drastically reduce access to information.
12. In August 2016, the government issued a five-year decree giving it the right to “regulate and control” the content of all television and radio networks through the State Broadcasting Committee. Independent media outlets and individual journalists faced intimidation and harassment by police and the security services for covering politically sensitive issues, including reports on the banned Islamic Renaissance Opposition Party (IRPT) and the opposition movement Group 24.<sup>7</sup> As a result, scores of journalists have been forced to leave the country.<sup>8</sup>

13. Two new pieces of legislation, the Law on States of Emergency and the Law on Counteracting Extremism signed by the President in May 2019 and January 2020 respectively, granted the authorities wide-ranging powers to restrict the rights to freedom of expression and peaceful assembly during times of public emergencies. The authorities used these powers to block access to internet and mobile communications and impose censorship during police and counter- terrorism operations, in violation of international standards.<sup>9</sup> This makes it very difficult to independently verify allegations of human rights violations and has contributed to a climate of fear and impunity.
14. In February 2020, the Supreme Court concluded that the foreign-based independent news website Akhbor offered a platform to “terrorists and extremists” and ruled to block it. This effectively made journalists working for Akhbor members of a banned “extremist” organization and so liable to prosecution. In November, Akhbor’s editor-in-chief stated he was forced to close down the website due to security risks to all those associated with it, including its readers.
15. The authorities continued to make use of articles of the Criminal Code to bring charges of ‘incitement to discord’, and ‘counter-terrorism and extremism’ against journalists and bloggers, who published critical material on politically sensitive topics. In April 2020, for example, a court in the capital Dushanbe found independent journalist Daler Sharipov guilty of “inciting religious discord” and sentenced him to one year in prison for publishing and unofficially disseminating an academic dissertation on Islam.<sup>10</sup>
16. The authorities tightly controlled the narrative and messaging around the COVID-19 pandemic and introduced new legislation against “false” information about coronavirus infections. In June 2020, Parliament adopted changes to the Administrative Code to punish, with substantial fines, journalists, bloggers, and others for distributing “inaccurate” and “untruthful” information about the pandemic through mass media or social networks. The amendments exposed users of mobile messengers to prosecution for sharing “unreliable” information and gave the security services powers to monitor private correspondence.<sup>11</sup>
17. In January 2019, amendments to the Law on Public Associations in relation to the financing of terrorism introduced additional reporting obligations for NGOs and gave the Ministry of Justice broad powers to report organizations to the police and security services for investigation. NGOs feared that the authorities would use the amendments to silence critical voices.<sup>12</sup> The authorities failed to include NGOs in consultations on a new law on non-commercial organizations, contrary to their commitments undertaken during the UPR interactive dialogue.<sup>13</sup>

#### REPRESSION OF DISSENT – FORCIBLE RETURNS, UNFAIR TRIALS, TORTURE AND ILL-TREATMENT

18. In the period under review, dozens of members and associates of banned opposition groups, and their families sought protection abroad. IRPT and Group 24 activists in exile reported that in retaliation for their actions abroad, such as peaceful protests at international meetings and conferences, police and security services in Tajikistan threatened, detained, questioned and in some cases beat family members, including elderly relatives and children. Local authorities publicly shamed relatives branding them as “traitors” and “enemies of the state”.<sup>14</sup>
19. In July 2019, at the end of their first visit to Tajikistan, the UN Working Group on Enforced or Involuntary Disappearances (WGEID), expressed concern about numerous allegations of forcible returns and enforced disappearances of IRPT and Group 24 members living in exile.<sup>15</sup> At least eight were forcibly returned from Turkey, Russia and Europe to Tajikistan in 2019 and 2020<sup>16</sup>.

20. In March 2020, **Hizbullo Shovalizoda** was extradited from Austria to Tajikistan after a court turned down his asylum application, which the Supreme Court of Austria later ruled illegal. He was held incommunicado in a prison in Dushanbe upon his return and tortured to confess to being a member of the IRPT. He was convicted and sentenced to 20 years in prison in June 2020, following a secret trial. In November 2020 the Supreme Court of Austria ordered the authorities to secure his return from Tajikistan; however he remained in detention in Tajikistan as of March 2021.
21. Since 2015, defence lawyers who take up politically sensitive cases, or cases related to national security and counter-terrorism, have faced increasing harassment, intimidation and undue pressure in connection with their legitimate professional activities. Human rights lawyers have faced arbitrary arrests, prosecutions on politically motivated charges, harsh prison sentences and the harassment of their families and colleagues. Many human rights lawyers had to flee the country for safety.<sup>17</sup>
22. In an Opinion issued in June 2019 the UN Working Group on Arbitrary Detention concluded that the detention of human rights lawyer **Buzurgmekhr Yorov** was arbitrary and called for his immediate release.<sup>18</sup> He continues being held in the Strict Regime Prison Colony No.1 in Dushanbe in cruel, inhuman and degrading conditions. He was sentenced to a total of 28 years in prison after being convicted of anti-state charges in unfair trials in 2016 and 2017. He was tortured, denied access to legal defence and adequate medical assistance, and spent long periods in solitary confinement.<sup>19</sup> In April 2020, his health sharply deteriorated, with COVID-19-consistent symptoms. Anonymous sources reported some months later that his health continued to be fragile and that he was facing punishment from prison authorities for interacting with fellow prisoners and giving them legal advice.

#### DEATHS IN CUSTODY – CONDITIONS OF DETENTION, TORTURE AND ILL-TREATMENT

23. Tajikistan accepted a recommendation at the previous review to ensure that prompt, thorough and impartial investigations are carried out into all deaths in custody as well as all allegations of torture and other ill-treatment but has failed to implement this.<sup>20</sup>
24. While civil society groups and human rights defenders have access to most detention facilities, they do not have access to all detention facilities, especially not to facilities under the State Committee for National Security and the State Agency on Organized Crime. The visits are never fully private and confidential, and representatives of the Ombudsman's Office must accompany human rights defenders on the visits.
25. The authorities refused independent monitors access to the prison to verify official claims that members of banned Islamist groups, in particular the armed group calling itself Islamic State (IS), instigated a riot at a high security prison in May 2019 in which dozens of prisoners were killed and hundreds injured. Three senior IRPT members, convicted of politically motivated charges in 2016, were killed during the unrest. The authorities also blamed IS members for similar violent unrest at a separate high security prison in November 2018. Independent observers claimed that both riots were the result of the systematic torture and ill-treatment of prisoners.
26. In July 2019, a court in Dushanbe convicted 33 prisoners in connection with the unrest in November 2018. They were sentenced to long prison terms in a secret trial. Relatives of five of the accused claimed that the men had been tortured to confess to having organized the riots. No effective independent investigations were launched into the deaths in custody and allegations of torture and other ill-treatment in relation to both riots.<sup>21</sup>
27. At least 14 prisoners died in suspicious circumstances when they were transported in prison vehicles from Soghd region to Dushanbe in July 2019. Human rights organizations cast doubt on the authorities' claim that the prisoners had died of food poisoning, instead raising concerns about the conditions during transportation, including overcrowding, high temperatures, poor ventilation, and inadequate provision of

food and water.

## RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PEOPLE

28. While consensual same-sex sexual relations are not a criminal offence, they have continued to be highly stigmatized. Officials have continued to use homophobic and transphobic rhetoric against LGBTI people with impunity.<sup>22</sup> Since 2014, the Ministry of Internal Affairs (MVD) has included “homosexuality and lesbianism” in its list of “amoral crimes, prostitution and procurement”. LGBTI individuals have been subjected to intimidation, violence, extortion, arbitrary arrests, detention and discrimination, including being forcibly registered on these MVD lists.<sup>23</sup>

## DOMESTIC AND GENDER-BASED VIOLENCE

29. While the government runs a nation-wide network of resource centres for women, there are only five women’s shelters, all of them run by NGOs with no state funding. These shelters reported an alarming increase in cases of domestic and gender-based violence during the COVID-19 pandemic. The Gulrukhsor Women’s Centre in Khudjand, northern Tajikistan, received 142 applications in May 2020 alone, a threefold increase from the previous month.

# RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

## **Amnesty International calls on the government of Tajikistan to:**

### *Freedom of Expression and the Media*

- Bring legislation on NGOs into line with international standards and involve NGOs in consultations on the laws on public associations and non-commercial organisations, as well as other legislation that affects the exercise of human rights.
- Ensure that human rights NGOs, defenders and lawyers are not subjected to pressure by government and law enforcement officials because of their work and that they can carry out their work without fear of reprisals.
- Urgently implement the UN Human Rights Committee’s recommendations and bring legislation on states of emergency into line with Article 4 of the ICCPR.
- Refrain from using emergency powers arbitrarily during police or security operations when no state of emergency has been declared.

### *Repression of Dissent – Forcible return, torture and ill-treatment*

- Immediately cease reprisals, violence and pressure on political opposition and civil society activists, lawyers and members of their families, including threats of harm and sexual violence; thoroughly, transparently and effectively investigate all complaints and reports of such abuse and bring suspected perpetrators to justice in fair trials.

- Ensure that all detainees and prisoners, including those who have been extradited or otherwise returned from other countries, are able, from the outset of detention, to exercise their rights to contact their family or another third party, and to consult in private and in confidence with a lawyer of their choice and with an independent medical practitioner.
- Ensure that the legal safeguards pertaining to the early stages of detention are consistently implemented in practice and provide for sanctions against law enforcement officials who are found responsible for violating these legal requirements.
- Amend the Code on the Implementation of Criminal Punishment to ensure that family members are promptly informed of prisoners' whereabouts upon admission to a prison facility and of any transfers.
- Honour their international obligations by implementing the recommendation of the UN Working Group on Arbitrary Detention and release human rights lawyer Buzurgmekhr Yorov immediately and unconditionally.
- Implement relevant accepted recommendations from the previous review and the August 2019 recommendation by the Human Rights Committee to "establish [...] as a matter of priority, a genuinely independent complaints mechanism to investigate allegations of torture and other ill-treatment and ensure that complainants are protected against any form of reprisal".
- Implement the recommendation accepted at the previous review to ensure that prompt, thorough and impartial investigations are carried out into all deaths in custody as well as all allegations of torture and ill-treatment in places of detention and prisoner transportation.
- Ratify the Optional Protocol to the Convention against Torture and set up a National Preventive Mechanism (NPM) and establish as a matter of priority an effective system of independent, unannounced inspection and supervision of all places of detention by competent, independent and impartial bodies, including civil society groups. This mechanism should be separate from and in addition to the NPM once it has been set up.
- Guarantee that these independent monitors, as well as NPM members, have the right to confidentially interview all detainees and prisoners and investigate any complaints of torture or other ill-treatment.

*Rights of Lesbian, Gay, Transgender and Intersex People*

- Ensure that all credible allegations of arbitrary detention, extortion, torture and other ill-treatment of LGBTI persons by government agents or of their abuse by non-state actors are promptly, thoroughly, impartially and independently investigated, and that suspected perpetrators are brought to justice in fair trials.
- Devise and implement specific procedures to ensure that LGBTI persons who lodge complaints or provide witness reports about extortion or physical abuse by police or non-state actors are protected against reprisals as soon as the authorities receive the complaint/witness report and that appropriate disciplinary or, where relevant, criminal measures are imposed against suspected perpetrators for such actions.

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<sup>1</sup> UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, Tajikistan, UN Doc. A/HRC/33/11, 14 July 2016, paragraphs 115-118.

<sup>2</sup> A/HRC/33/11, Recommendations 115.9-115.12 (Turkey, Montenegro, Slovenia, Paraguay, Uruguay); 115.46- 115.57 (Italy, Lithuania, Slovakia, Costa Rica, Honduras, Georgia, Portugal, France, Australia, Belgium, Spain, Germany); 118.8, 118.9 (Ukraine, Poland)

<sup>3</sup> Government decree No. 385, *"The Strategy for Reforming the System of Implementation of Criminal Punishments"*, approved on 25 June 2020.

<sup>4</sup> International Partnership for Human Rights, Helsinki Foundation for Human Rights, Nota Bene, *"He left his footprint on my life"*, *Domestic Violence in Tajikistan: Time to Right the Wrongs*, March 2017. <https://iphronline.org/wp-content/uploads/2017/03/ENG-Domestic-violence-in-Taj-March-2017.pdf>

<sup>5</sup> Committee against Torture, *Concluding observations on the third periodic report of Tajikistan*, UN Doc. CAT/C/TJK/CO/3, 18 June 2018, para 48, <https://undocs.org/en/CAT/C/TJK/CO/3>

<sup>6</sup> Committee on the Elimination of the Discrimination Against Women, *Concluding observations on the sixth periodic report of Tajikistan*, UN Doc. CEDAW/C/TJK/CO/6, 14 November 2018, para 26, <https://undocs.org/en/CEDAW/C/TJK/CO/6>

<sup>7</sup> The IRPT was a legally registered political party, and the only Islamist political party in the whole of Central Asia. From the late 1990s and until 2015, it had participated in elections, winning seats in the country's parliament. However, following the widely disputed 1 March 2015 parliamentary elections in Tajikistan, the party lost its two remaining parliamentary seats. On 28 August 2015, the IRPT received an order from the Ministry of Justice to cease its activities by 7 September on the basis that it "lacked sufficient popular support" to qualify as a registered party. Group 24 was a secular opposition movement co-founded by businessman and opposition politician Umarali Kuvvatov. Group 24 was banned by the Supreme Court as "extremist" in October 2014. Umarali Kuvvatov was assassinated in Turkey on 5 March 2015.

<sup>8</sup> Amnesty International: *Tajikistan - Freedom of Expression*, Amnesty International Report 2017/18, p 356, <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>

<sup>9</sup> In its Concluding Observations, the UN Human Rights Committee expressed concern that legislation on states of emergency is not compatible with the requirements of Article 4 of the ICCPR, which regulates the use of measures derogating from the Covenant during public emergencies. The Committee also raised concerns that the authorities have used these emergency powers to block access to the internet and mobile networks arbitrarily in situations when no state of emergency had been declared.

<sup>10</sup> The prosecutor argued that he had published "extremist" articles and had links to an "extremist" organization. Daler Sharipov rejected the charges but admitted that he might have "made mistakes" in the dissertation; he did not appeal his sentence. He was released in January 2021. <https://www.amnesty.org/download/Documents/EUR6022062020ENGLISH.pdf>

<sup>11</sup> In July 2017, Parliament had adopted new legislation granting the police and security services new powers to obtain information about internet sites visited by individuals. The law was proposed following claims, which were not substantiated, by some officials that over 80% of internet users accessed sites with "extremist" content.

<sup>12</sup> During its review of Tajikistan's implementation of the ICCPR in July 2019, the UN Human Rights Committee raised concerns that recent counter-terrorism legislation had a "chilling effect" on the activities of civil society groups. Human Rights Committee, *Concluding observations on the third periodic report of Tajikistan*, 22 August 2019, <https://undocs.org/CCPR/C/TJK/CO/3>

<sup>13</sup> A/HRC/33/11, Recommendation 115.88 (Spain), which enjoyed the support of Tajikistan: "Initiate a process of consultations with civil society to study how to reform the 2015 law on public associations to favour freedom of association, in line with international human rights norms", <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/33/11&Lang=E>

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<sup>14</sup> In August 2019, the UN Human Rights Committee expressed serious concern at the ongoing harassment, ill-treatment and

arbitrary detentions of family members of banned political opposition parties and groups, including IRPT and Group 24, in retaliation for exiled activists voicing dissent abroad. Human Rights Committee, *Concluding observations on the third periodic report of Tajikistan*, 22 August 2019, <https://undocs.org/CCPR/C/TJK/CO/3>

<sup>15</sup> The WGEID reiterated their concern in their report to the UN Human Rights Council in 2020: *Visit to Tajikistan, Report of the Working Group on Enforced or Involuntary Disappearances*, UN Doc. A/HRC/45/13/Add.1, 6 August 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/202/48/PDF/G2020248.pdf?OpenElement>

<sup>16</sup> Some, like Sharoffidin Gadoev, the deputy leader of Group 24, were abducted and rendered by Tajikistani security services with the cooperation of other law enforcement agencies. In other cases, governments were complicit in arresting and removing suspects back to Tajikistan.

<sup>17</sup> Amnesty International, *In the line of duty: Harassment, prosecution and imprisonment of lawyers in Tajikistan* (EUR 60/6266/2017), <https://www.amnesty.org/en/documents/eur60/6266/2017/en/>

<sup>18</sup> Opinions adopted by the Working Group on Arbitrary Detention at its eighty-fourth session, 23 April–3 May 2019, Opinion No. 17/2019 concerning Buzurgmehr Yorov (Tajikistan), UN Doc A/HRC/WGAD/2019/17, 12 June 2019, [https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session84/A\\_HRC\\_WGAD\\_2019\\_17.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session84/A_HRC_WGAD_2019_17.pdf).

Dushanbe City Court had sentenced Buzurgmekhr Yorov and his defence lawyer Nuriddin Makhamov to 23 and 21-years' imprisonment respectively in October 2016, following a blatantly unfair trial. Both lawyers were found guilty of "arousing national, racial, local or religious hostility" and "public calls for violent change of the constitutional order of the Republic of Tajikistan", charges they consistently denied. The state media portrayed Buzurgmekhr Yorov as a "terrorist sympathizer" and therefore a "terrorist" himself. The human rights lawyers were punished for having accepted to represent several high-ranking IRPT members in court.

<sup>19</sup> In September 2019, the authorities allowed Buzurgmekhr Yorov's mother to visit him in prison. He told her that the guards subjected him and other cellmates to regular beatings, including to the head, using their legs, arms and batons while insulting, humiliating and threatening them.

<sup>20</sup> A/HRC/33/11, Recommendation 115.84 (Denmark)

<sup>21</sup> The WGEID expressed concern about the authorities' failure to allow independent monitors access to the prisons. In its report the WGEID... "was particularly disturbed by comments from a senior official that the authorities did not want "wounded inmates" and that the individuals "got what they deserved". The Working Group also obtained information indicating that vital pieces of evidence were reportedly unavailable. Those elements point to possible intentional extrajudicial killings by the authorities. There is a need for a thorough, effective, impartial and independent investigation to be conducted into both incidents, in line with international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death." A/HRC/45/13/Add.1, para 10.

<sup>22</sup> The UN Human Rights Committee was concerned at a statement by the Ombudsman for Human Rights that Tajikistan could not uphold the rights of LGBTI people because they were "contrary to the moral and ethical norms of relationships...". Human Rights Committee, *Concluding observations on the third periodic report of Tajikistan*, 22 August 2019, <https://undocs.org/CCPR/C/TJK/CO/3>

<sup>23</sup> LGBTI people were targeted in two public campaigns to prevent and combat "amoral behaviour" and crimes against "morality" launched in 2015 by the Office of the Prosecutor General, MVD and the State Committee on Women's Affairs and Family. In October 2017, the MVD announced that the names and personal details of 367 individuals suspected of being LGBTI had been entered on an MVD register ostensibly to protect them and to "prevent the transmission of sexually transmitted diseases, including HIV/AIDS". The authorities accused NGOs working with LGBTI people in the context of sexual health of undermining traditional cultural values. International Partnership for Human Rights and Helsinki Foundation for Human Rights, *LGBT People in Tajikistan: Beaten, Raped, and Exploited by Police*, February 2018, [https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TJK/INT\\_CAT\\_CSS\\_TJK\\_30680\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TJK/INT_CAT_CSS_TJK_30680_E.pdf)