

TAJIKISTAN 2016-2021
UNIVERSAL PERIODIC REVIEW
THIRD CYCLE
SUBMISSION PREPARED BY
CIVIL SOCIETY ORGANIZATIONS OF THE
REPUBLIC OF TAJIKISTAN

**Tajikistan NGOs Coalition for Civil and Political
Rights**

The review was prepared by civil society organizations of the Republic of Tajikistan under the coordination of the Public organisation “Bureau of Human Rights and Rule of Law”, and covers 2016-2021 years. Open-source statistical data, national and international reports, mass media materials, international standards, national legislation, and other open sources were used during preparation of the review.

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4. PO “Law and Prosperity”
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6. PO “Independent Center for Protection of Human Rights”
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- I. GENERAL ISSUES / INTERNATIONAL COMMITMENTS

The Republic of Tajikistan is a party to almost all main human rights treaties (except for the International Convention for the Protection of All Persons from Enforced Disappearance and Convention on the Rights of Persons with Disabilities). Between the second and third UPR cycles, Tajikistan signed the Convention on the Rights of Persons with Disabilities (2018). From July 1 to July 5, 2019, a delegation of Working Group for enforced or involuntary disappearances¹ conducted an official visit to the country.

A Draft Strategy of the Republic of Tajikistan in the field of human rights protection up to 2030 was developed.

To date, Tajikistan has not ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). No National Preventive Mechanism (NPM) has been established in the country. Apart from the joint monitoring with the Human Rights Ombudsman (HRO), civil society organizations have no access to closed and semi-closed institutions for independent monitoring.

The Republic of Tajikistan, during the last five years, has improved the legal framework for mechanisms to fulfill international commitments in the field of human rights.²

In May 2016, a series of amendments were introduced in the national Constitution. The amendments have enhanced the legal status and powers of the Founder of the Peace and National Unity – Leader of the Nation; reduced the age requirement of candidates for the position of the President for a five-year term – from 35 to 30 years. Those amendments also aimed at prohibition on faith-based and nationalist parties in Tajikistan³.

In 2002, there was established a Commission for fulfillment of international commitments in the field of human rights under the Government of RT. The Secretariat of the Commission is the Department for Guarantee of Individual Human Rights of the Executive Office of the President of RT. In April of 2017, there was adopted a new Regulation on the Commission for fulfillment of international commitments in the field of human rights under the Government of RT, which enlarged the powers vested in the Commission. The Commission has its own website: www.khit.tj. There is a separate section dedicated to UPR.

Two National plans to fulfill the recommendations of the UN Council's member states related to Universal Periodic Review of the Republic of Tajikistan on human rights (for 2013 -2015 years and for 2017-2020 years) were approved by the President of the Republic of Tajikistan.

Civil society representatives received the right to take part in the Commission's meetings, in a consultative capacity, but, representatives of civic institutions do not officially take part in the work of the Commission. There is no information on the Commission's meetings, work plans and decisions made, as to outcomes of the Commission's working meetings⁴.

The UN human rights case law practices are not common in decisions of judicial authorities.

No decision of the Human Rights Committee on individual complaints implemented by the state⁵.

There is no official translation of international instruments in the field of human rights into the state language. Official sites of the Ministry of Foreign Affairs of RT and Ministry of Justice of RT do not contain the texts of international instruments of RT. Also, no information is available in the centralized bank of legal information "Adliya" of the Ministry of Justice of RT. The unofficially translated texts of

¹ Source: <http://www.undocs.org/ru/A/HRC/45/13/Add.1>

² Source: PF «Nota Bene», Tajikistan's fulfilling international commitments in the field of human rights: legal frameworks and procedures, 2019.

http://notabene.tj/Doc/Taj/%D0%B8%D1%81%D1%81%D0%BB%D0%B5%D0%B4%D0%BE%D0%B2%D0%B0%D0%BD%D0%B8%D0%B5_%D1%80%D1%83%D1%81_2019.pdf

³ Amendments to the Constitution of the Republic of Tajikistan, as of 22.05.2016.

⁴ Source: PF «Nota Bene», Tajikistan's fulfilling international commitments in the field of human rights: legal frameworks and procedures, 2018.

http://notabene.tj/Doc/Taj/%D0%B8%D1%81%D1%81%D0%BB%D0%B5%D0%B4%D0%BE%D0%B2%D0%B0%D0%BD%D0%B8%D0%B5_%D1%80%D1%83%D1%81_2019.pdf

⁵ Source: Tajikistan's fulfilling international commitments in the field of human rights: legal frameworks and procedures (follow-up monitoring report), Public Fund "Nota Bene", 2018.

international instruments in the field of human rights are available on the websites of the Commission for fulfillment of international commitments in the field of human rights under the Government of RT (www.khit.tj), Human Rights Ombudsman in the Republic of Tajikistan (www.ombudsman.tj), and the National Legislation Center under the President of RT (www.mmkk.tj), but, terminology used in the texts is not identical, and there is no a reference indicating that these documents are unofficial texts⁶.

In 2016, there responsible (contact) persons for human rights were assigned almost in all ministries and departments, who should be engaged with the Secretariat of the Commission for fulfillment of international commitments in the field of human rights, and be contact persons for human rights' data collection and processing. To date, not all the ministries and departments have a streamlined activity for collection and processing of information, timely provision of information that is often incomplete and sub-standard. There is an underdeveloped mechanism to interact between responsible human rights persons in ministries and departments, as well as between responsible human rights persons and the Secretariat⁷.

The Human Rights Ombudsman Institution (HRO) is not yet fully independent, and has "B" status. In order to provide for compliance of the national legislation with the Paris Principles⁸, amendments have been adopted and introduced to the legislation⁹, according to which the HRO is authorized for functions to facilitate the ratification of international statutes on human rights or accession of the Republic of Tajikistan to them. The HRO has been removed from the Commission for fulfillment of international commitments in the field of human rights, and has the right, together with the Child Rights Ombudsman in RT, to take part in all meetings of the Commission, in a consultative capacity¹⁰.

Process of development of laws and statutory instruments in the field of human rights does not meet principles of transparency, with the civil society inadequately engaged in law making processes and follow-up discussion of draft laws.

Recommendations¹¹:

1. Take urgent measures for translation of all international instruments in the field of human rights ratified by the Republic of Tajikistan into the state language and provide for official publication of their texts in official publishing offices.
2. Develop and adopt uniform official terminology in the field of human rights.
3. Take further measures for reforming of mechanisms and procedures responsible for fulfillment of international commitments in the field of human rights, to establish a single centralized mechanism.
4. Engage civic institutions in the work of the Commission for fulfillment of international commitments in the field of human rights under the Government of RT.
5. Appropriate resources for effective carrying out activities of the Commission' Secretariat and human rights responsible persons.
6. Develop a mechanism for taking into account the considerations of international human rights bodies on personal notifications.
7. Develop a system for widespread dissemination of information on international commitments of RT in the field of human rights.

⁶ Source: Tajikistan's fulfilling international commitments in the field of human rights: legal frameworks and procedures (follow-up monitoring report), Public Fund "Nota Bene", 2018.

⁷ Source: Tajikistan's fulfilling international commitments in the field of human rights: legal frameworks and procedures (follow-up monitoring report), Public Fund "Nota Bene", 2018.

⁸ Principles related to the status of national institutions promoting and protecting human rights. Supplement to Resolution 48/134 of the General Assembly as of December 20, 1993.

⁹ Law of RT "Concerning the introduction of amendments and additions to the Law "On the Human Rights Ombudsman in RT"", as of March 15, 2016.

¹⁰ Source: Tajikistan's fulfilling international commitments in the field of human rights: legal frameworks and procedures (follow-up monitoring report), Public Fund "Nota Bene", 2018.

¹¹ Source of the Recommendations 1-7: Tajikistan's fulfilling international commitments in the field of human rights: legal frameworks and procedures (follow-up monitoring report), Public Fund "Nota Bene", 2018.

8. When handling legal matters and rendering judicial decisions, apply provisions of international human rights treaties recognized by the Republic of Tajikistan. Maintain statistical information on the application of international statutes by courts.
9. Provide the Human Rights Ombudsman in RT, and the Child Rights Ombudsman in RT, with independent performance guarantee.

II. EQUALITY AND NON-DISCRIMINATION

Prohibition on discrimination is secured in the Constitution of RT and mentioned in various laws and statutory instruments of the country. To date, a state Working Group, with participation of the civil society, has developed a draft law concerning the equality and eradication of discrimination.

Definition of discrimination at legislative level is secured only in the Law of RT “Concerning the state guarantees for equality between men and women, and equal opportunities of their implementation”. The Labor Code of RT does not contain the notion of “harassment”.

Gender programs and other state socio-economic policies current in Tajikistan¹² do not stipulate for such specific groups of women as women living with HIV, sex workers, women – injecting drug users, women – ex-prisoners.

Legislation and policy of Tajikistan have no anti-discriminatory rules and measures in the area of access to labor and employment of persons with disabilities. Women with disabilities undergo multiple gender-, disability-, and, not infrequently, poverty-based discrimination. As a rule, women with disabilities are poorly educated and, consequently, compose a large share of unemployed persons among the disabled, if compared to men.

Sex workers – women, men and trans-gender persons – are highly stigmatized, and suffer from systematic discrimination in the Republic of Tajikistan. Human rights, in relation to LGBTs in Tajikistan, are often violated, whereas homosexual relationship, on mutual consent of adult men, was decriminalized in the territory of Tajikistan in 1998. Groups working with sexual minorities become particularly vulnerable to pressure and/or inspections on the part of the government in the context of homophobia and transphobia in the society, resulting in the forced shutdown of a few NGOs in the recent years. Over the last years, law-enforcement bodies have numerously claimed on the necessity to counteract homosexuality, with LGBTs increasingly becoming targets for policemen¹³. Programs generally aimed at eradication of violence against women do not actually pay attention to violence against sex workers and LGBTs.

In Tajikistan, there are legislative and practical barriers impeding the access of people living with HIV (PLHIV) to HIV prevention and treatment, widening their discrimination both, in social and private life. In the recent years, there gain momentum practices and adoption of bylaws that abridge the right of PLHIV to education and labor¹⁴. Health personnel does not comply with confidentiality of PLHIV, AIDS centers send lists with the names of HIV-positive persons to Interior Departments, and they, in turn, communicate this with local authorities¹⁵.

Recommendations:

¹² State program for prevention of domestic violence for 2014-2023, and a plan of actions attached thereto; National strategy for promotion of an active role of women in the Republic of Tajikistan for 2011-2020; National development strategy of the Republic of Tajikistan for up to 2030; National public health strategy of the Republic of Tajikistan for 2010-2020; National education development strategy for up to 2020; State labor market strategy for up to 2020.

¹³ Source: Joint report of NGOs to the Committee against Torture, prior to consideration of the third periodic review of Tajikistan on the status of implementation of the Convention against Torture, 2018.

¹⁴ Government of RT has adopted Resolution №475, as of September 25, 2018, concerning the approval of a List of Diseases, that discourage persons affected by them from being taught in health education institutions.

¹⁵ Source: Activity of civic institutions to control stigma and discrimination (research outcomes), Public Foundation “Nota Bene”, 2019.

[http://notabene.tj/Doc/Taj/%D0%9E%D1%82%D1%87%D0%B5%D1%82_%D0%BF%D0%BE_%D1%80%D0%B5%D0%B7%D1%83%D0%BB%D1%8C%D1%82%D0%B0%D1%82%D0%B0%D0%BC_%D0%B8%D1%81%D1%81%D0%BB%D0%B5%D0%B4%D0%BE%D0%B2%D0%B0%D0%BD%D0%B8%D1%8F%20\(1\).pdf](http://notabene.tj/Doc/Taj/%D0%9E%D1%82%D1%87%D0%B5%D1%82_%D0%BF%D0%BE_%D1%80%D0%B5%D0%B7%D1%83%D0%BB%D1%8C%D1%82%D0%B0%D1%82%D0%B0%D0%BC_%D0%B8%D1%81%D1%81%D0%BB%D0%B5%D0%B4%D0%BE%D0%B2%D0%B0%D0%BD%D0%B8%D1%8F%20(1).pdf)

1. Adopt a law on equality and elimination of discrimination.
2. Provide for non-discrimination of people living with HIV. Obligatorily retain a lawyer to interpose in criminal matters, in favor of people living with HIV, and HIV-positive people.
3. Guarantee non-discrimination and observance of rights of persons with disabilities.
4. “Retain from persecuting LGBTs due to their gender identity and sexual orientation. Provide for immediate, thorough, impartial and independent investigation of all credible claims of arbitrary detention, extortion, torture or other cruel treatment of LGBTs on the part of government officials or violence on the part of non-state actors”¹⁶.

III. RIGHT TO LIFE AND ABOLITION OF CAPITAL PUNISHMENT

On July 15, 2004, the Parliament of Tajikistan adopted the Law “Concerning the suspension of capital punishment” in the country, with life imprisonment being alternative to capital punishment since March 1, 2005. In April of 2010, there was established a Working Group under supervision of the Senior Adviser to the President on legal policy, Mr. Jumakhon Davlatov. The Working Group included a representative of the Executive Office of the President of RT, chief executives of ministries and departments, courts, and ombudsman. The Working Group did not include representatives of the civil society, clergy and journalists¹⁷.

The Working Group developed a plan of actions including the study of international practices and legislation of countries that abolished the capital punishment, a sociological survey of various population groups, as well as enquiry into the possibility of ratification of the Second Optional Protocol to the Covenant.

To date, capital punishment is not abolished so far.

Recommendations:

1. Exclude capital punishment from the Constitution of the Republic of Tajikistan and Criminal Code of RT.
2. Ratify the Second Optional Protocol to the Covenant of Civil and Political Rights.

IV. FREEDOM FROM TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

In 2020, Article “Torture” of the Criminal Code of RT was amended in order to enhance punishment for torture. Penalty as a punishment was removed from the Article, and the term of imprisonment has increased. Timeline for prohibition of employment or holding a position, as to persons found guilty in torture, has increased.

In 2019, the Amnesty Law was adopted, according to which there were released around 20 000 prisoners. Amnesty did not apply to persons convicted in accordance with Article “Torture”.

On January 24, 2019, the Commission for ensuring the fulfillment of international commitments in the field of human rights under the Government of RT adopted a National Plan of Action to implement recommendations of the UN Committee against Torture for 2019-2022¹⁸. There is no paragraph in the National Plan that stipulates establishment of a NPM.

Torture remains the matter of high concern for Tajikistan. Since 2016, Coalition of the Civil Society against Torture and Impunity of Tajikistan has been regularly recording complaints about torture: in 2016, there were registered 57, in 2017 – 66, in 2018 – 44, in 2019 – 52, and for 2020 – 37 claims from men, women and children, who were allegedly exposed to torture and other cruel treatment¹⁹.

¹⁶ Source: Joint report of NGOs to the Committee against Torture, prior to consideration of the third periodic review of Tajikistan on the status of implementation of the Convention against Torture, 2018.

¹⁷ Source: <https://www.asiaplustj.info/news/tajikistan/society/20190602/vernetsya-li-v-tadzhikistan-smertnaya-kazn>

¹⁸ Source: <http://khit.tj/rus/nacionalnyy-plan-deystviy-7/>

¹⁹ Source: www.notorturetj.org

Investigations in relation to allegations of torture and cruel treatment are rarely conducted efficiently. There are no mechanisms to ensure prompt, thorough, impartial and entirely independent investigations. National legislation highlights the unacceptability of confessionary statements obtained as a result of torture or other cruel treatment. Nevertheless, there are no mechanisms ensuring the enforcement of this law. The Coalition against Torture and Impunity does not know any case when the court would decline evidence obtained under torture. Amounts of compensation paid for moral injury inflicted, as a result of torture, for the period under review, are neither fair nor adequate. National legislation fails to provide other types of compensation to torture victims, such as rehabilitation, redress or safeguards for not occurring again in future²⁰.

Recommendations:²¹

1. Ratify the Optional Protocol to the Convention against Torture and establish a National Preventive Mechanism (NPM).
2. Establish a public control mechanism to monitor all detention facilities and other closed and semi-closed institutions.
3. Create a single system for notification of cases related to torture or other cruel treatment.
4. Include total prohibition on torture in all relevant laws and statutory instruments of RT, including the Code of Public Healthcare of the Republic of Tajikistan.
5. Take all necessary measures to ensure prompt, thorough and impartial investigation of all allegations of torture or cruel treatment, as well as bring to responsibility those accused, and, if found guilty, make punishment fit the severity of their crimes.
6. Secure in legislation the non-application of amnesty to those found guilty in committing torture and cruel treatment.
7. Introduce the current mechanism for immediate access of a prisoner to a lawyer on his own choice and at a request of relatives²².
8. Ensure necessary legislative basis for establishing independent forensic and psychiatric examination.

Rehabilitation of torture victims / their family members

National legislation does not contain special provisions concerning the rehabilitation of torture victims. This category of persons has no any social benefits (free medical, psychological and social assistance, pensions and allowances). There is appreciable shortage of human resources in the area of psychological rehabilitation.

Recommendations:

1. Conduct a comprehensive review of the national legislation on issues of torture victim's rehabilitation, with a series of amendments to the legislation.
2. Include in the legislation provisions on the right of torture victims and/or their family members to compensation, including fair and adequate compensation and rehabilitation.
3. Include torture victims (torture, violence against women, military servicemen) into vulnerable groups, in order to provide guarantees for medical examination and outreach of rehabilitation programs.
4. Develop and adopt programs providing rehabilitation services to victims and/or their family members, and consider the issue of funding rehabilitation programs and attraction of alternative sources of funding.

²⁰ Source: Joint report of NGOs to the Committee against Torture before consideration of the third periodic review of Tajikistan on the status of implementation of the Convention against Torture, 2018.

²¹ Source: Joint report of NGOs to the Committee against Torture before consideration of the third periodic review of Tajikistan on the status of implementation of the Convention against Torture, 2018.

²² At the present time, a lawyer is only allowed to meet with prisoner upon a written application of prisoner himself that should be endorsed by the management of a detention facility.

V. RIGHTS OF CONSCRIPTS AND MILITARY PERSONNEL

From 2014, underway is monitoring in the military units of the Ministry of Defense. All monitoring activities were carried out with a written consent of the Ministry of Defense, with the dates being agreed upon in advance.

In the Republic of Tajikistan, military conscription occurs two times per year. Military service remains unpopular among citizens of conscription age. Draft evasion brought about illegal detention (DRAFT RAIDS) and enforced draft, bringing people to conscription centers to be medically examined and sent to military units. As a result of such arbitrary detention, citizens are kept in assembly places ill-suited for continuous stay.

Recruitment officers practice illegal detention of conscripts' parents in order to force their sons to do military service.

Right to refuse to do military service is not guaranteed by legislation. A new law on the military service, adopted in January of 2021, as distinct from the previous law, does not even mention about civilian substitute service²³.

Medical commission that decides, whether a conscript fits for military service, does not have necessary medical equipment, and this results in giving permission to do military service even to citizens unfit for military service.

There is no special department under the Human Rights Ombudsman (HRO) to protect the rights of service persons and conscripts, and, nevertheless, one officer of HRO is in charge of military personnel's rights.

Matter of deep concern is the abuse of new conscripts by older soldiers and acts of violence/harassment in the army. Older soldiers and officers employ physical and psychological violence against subordinates and new conscripts. In the army, there still persist unofficial service person initiation ceremonies that dishonor service persons.

Another concern is a weak mechanism for investigation of torture and bullying cases in army. Despite that in 2012 Article of "Torture" was included in the Criminal Code of RT, and that in 2019 punishment according to this Article was enhanced, since then not a single person has been convicted by military courts in accordance with the Article "Torture". Criminal matters concerning cruel or inhuman treatment of soldiers are considered in line with the following articles of the Criminal Code of RT: "Acts of Violence/Harassment" for soldiers and "Negligence" or "Exceeding Official Powers" for officers.

Legislation does not specify unconditional transfer of service persons, who have become victims and eyewitnesses of torture in army, to other military units, and this results in repeated violence and, when claimed against, brings about practice of hushing up torture victims and impunity.

Service persons who committed offences, infractions and crimes are placed in the brig ("gauptvakhta"), whose activity is governed by Articles of War. Herewith, it is the commander of a military unit who decides on placement in "gauptvakhta", and not court, as is the case for civilians; in "gauptvakhta", there is no lawyer retained for the service person. Up to date, no human rights monitoring is carried out in "gauptvakhtas".

Recommendations:

1. Conduct thorough investigation of arbitrary detention of conscripts and their relatives, and bring to responsibility persons who participated in draft raids, with further exemption from military service of soldiers sent to military units with use of illegal methods and breach of military conscription procedure.
2. Take subordinate army conscription commissions, in particular medical commissions, out of control of recruitment offices, for thorough and precise assessment of medical fitness, without interference with and bringing pressure on the activity of physicians on the part of a recruitment office.

²³Source: <https://www.ozodi.org/a/30706295.html?fbclid=IwAR1cZGQmCnCzz-FgKCdiWOqC5kPGMuluyXRiuxUgrRv8bUYEHIL4cW9pyw8>

3. Establish a department for protection of the rights of service persons and conscripts under the Human Rights Ombudsman in RT, with introduction of mechanisms for unscheduled visits of a monitoring group under HRO to all military units.
4. Improve a complaint mechanism to review acts of violence/harassment, including unconditional transfer to another military unit of eyewitnesses and victims of torture and cruel treatment in army.
5. Reduce the powers of military courts over civilians.
6. Apply provisions of the Law of RT “Concerning the state protection of participants in a criminal case” in relation to service persons.

VI. HUMAN RIGHTS IN PLACES OF DETENTION

A positive step for the review period was creation of a Monitoring Group under the Human Rights Ombudsman, which, since February of 2014, was able to conduct up to 15 visits per year to closed and semi-closed institutions. Except for joint monitoring with HRO, local NGOs lack access to closed and semi-closed institutions, in order to make independent monitoring. Despite the significant improvements, conditions in closed and semi-closed institutions do not meet international minimum standards.

The Human Rights Monitoring Group is included in the Working Group to promote ratification of the OPCAT. The Human Rights Ombudsman is responsible for coordination of the monitoring mechanism.

The Monitoring Group has a permission to visit almost all places of detention of the Ministry of Interior, Pre-Trial Detention Facilities (PTDF), penal colonies, homes for elderly people, homes for persons with disabilities, psychiatric clinics, out-patient departments for drug addicts, and youth custody centers. Before the end of 2014, Monitoring Group was to notify in advance about its visits, and had no opportunity to conduct confidential talks with apprehended persons. Subsequently, MG got an opportunity to visit places of detention without prior notification, as well as conduct confidential talks with prisoners. In 2018, there were increased the number of institutions to be visited and coverage of institutions (Temporary Holding Facility of the Drug Control Agency under the President of RT). Monitoring Group is equipped with photo cameras, hand-held scanners, hygrometers, and temperature meters.

In 2019, MG visited 7 closed and semi-closed institutions, as well as assessed needs for prevention and control of terrorism and extremism in places of detention of six institutions of the Main Directorate for Reformatory Justice of the Ministry of Justice of RT²⁴.

Despite the significant improvements achieved during the review period, gaps remain: Tajikistan has not ratified the Optional Protocol to the Convention against Torture (OPCAT), referring to financial stringency. The International Committee of the Red Cross (ICRC), since 2004, hasn't got access to places of detention in Tajikistan to conduct monitoring. Detention conditions, including also other closed and semi-closed institutions, in many cases, do not meet international minimum standards. Information received by the Monitoring Group shows that there are missing appropriate conditions for inmates in some institutions, especially in psychiatric facilities, and in some places of detention. In many psychiatric facilities, there is observed lack of qualified physicians and necessary medicines. Despite the efforts taken to increase funding for food products in places of detention, food supplies remain unsatisfactory.

In some Temporary Holding Facilities (THF), detention conditions are unfit to keep apprehended persons in the cold time of year, with cells that have no heating, ventilation, and lighting system. Some cells lack natural lighting and air intake. Water closets are in poor condition, and infract the intimacy right to comply with the needs of nature. Water supply issues give rise to doubts, whether proper living conditions are ensured or not. In some THFs and PTDF, there are no conditions for leisure-time activities of inmates.

²⁴ Source:

http://notorture.tj.org/sites/default/files/articles/2020/files/rezultaty_deyatelnosti_za_2019_g_koaliciya_go_protiv_pytok_i_beznakazannosti_v_tadzhikistane.pdf

Monitoring of THFs revealed that there were kept not only persons suspected or accused of committing crimes, but also persons serving sentences for administrative infractions.

In many institutions covered by monitoring, there was revealed an issue of insufficient funding²⁵.

In 2020, due to COVID-19 pandemic, monitoring activities have been temporarily suspended. Monitoring the situation of coronavirus infection in prisons of Tajikistan is impossible – authorities, as a rule, deny a requests of human rights activists and journalists to visit penitentiary facilities. Access to prisons was also barred for a mission of the World Health Organization that visited Tajikistan in May of 2020. According to the Minister of Justice of RT, not a single case of death due to coronavirus infection is reported so far in penitentiary facilities, but, in the last (2020) year, in the country’s prisons, 11 prisoners²⁶ died due to pneumonia.

In the light of spread of COVID-19 pandemic, civil society organizations prepared a document titled “COVID-19 and its impact on the status of monitoring of penitentiary facilities and freedom of expression – collection of useful resources”²⁷. On behalf of the Civil Society’s Coalition against Torture and Impunity in Tajikistan, on April 24, 2020, there were sent out submission letters on the observance of human rights, including also persons kept in pre-trial detention facilities, custodial facilities and penitentiary facilities in the context of COVID-19 pandemic²⁸.

Recommendations:

1. Ratify the Optional Protocol to the Convention against Torture and establish a National Preventive Mechanism.
2. Establish a public control mechanism to monitor all places of detention and other closed and semi-closed institutions.
3. Provide the International Committee of the Red Cross with right to monitor places of detention in Tajikistan.
4. Allocate sufficient budget resources for improvement of detention conditions in places of detention and other closed and semi-closed institutions, and bring them into compliance with basic international standards.
5. Exclude total isolation of life-sentence prisoners, improve their detention conditions and abolish laws that restrict their contacts with lawyers and family members.
6. Develop measures to respond to emergency situations (including also the deterioration of epidemiological situation) in places of detention.

VII. FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION

Over the last 10 years, a lot of mass media entities have ceased to operate²⁹. Journalists feel unsafe to produce materials on sensitive matters due to fear of being persecuted themselves or their family members. There are observed censorship and self-censorship among journalists and mass media.

Acquisition of true and timely information, within timeframes specified by law, from government agencies, especially on issues causing public interest, is very difficult.

In Tajikistan, there is observed practice of extra-judicial blocking of some information websites and Internet-resources. There are difficulties with access to the web portal of “Asia Plus”. Periodically, there is observed interruption of access to Internet. Internet is costly in the country, and its data transfer rates

²⁵ Source: <https://www.bhr.tj/page/otchety-bhr>, www.notorturetj.org

²⁶ Source: <https://rus.ozodi.org/a/31080502.html>

²⁷ Document is prepared by the International Partnership for Human Rights, in collaboration with PF “Nota Bene” and PO “Khoma”

²⁸ Source: https://notorturetj.org/sites/default/files/articles/2020/files/1._rezultaty_deyatelnosti_za_yanvar-iyun_2020_g.pdf

²⁹ Newspapers “Sughd”, “Facts i Kommentarii”, “Nuri Zindagi”, “Jomea”, “Millat”, “Nigoh”, “Paikon”, “Vecherny Dushanbe”, “Crim-Info”, “Golos Tadjikistana”, “Hafta”, “Varorud”, information agencies TojNews and Ozodagon, etc.. Weekly newspaper “Vechnyorka” has ceased to be published as printed media in Dushanbe, and from now on all materials are published on website.

often cause discontent among users.

In 2021, the Tax Committee of Tajikistan obliged large international Internet companies of e-trade (Google, Facebook and others) to pay quarterly VAT in the amount of 18%³⁰.

In 2014, amendments were made to the Law of RT “Concerning the legal status of an emergency situation” that allow authorities, in case of emergency declaration, restrict not only the activity of journalists, but also the public access to Internet and mobile communication.

In 2017, amendments were initiated to legislation that allow law-enforcement bodies receive information on what pages in Internet are visited by the country’s citizens. For visiting some “undesirable” sites one may forfeit liberty, with comments that may encourage criminal prosecution³¹.

Denial of accreditation of journalists, who work for foreign mass media, also restricts access to information.

There are still articles in the Criminal Code of RT related to defamation.

In 2016, Government of Tajikistan signed a Resolution “On the Common Data Switching Center (CDSC)”. This center was established in order to “control and regulate incoming and out-coming service traffic of international electrical communication and internet”. According to expert opinion, CDSC is the powerful instrument of pressure on mass media, and allows governmental structures to selectively cut-off communication and internet, if they deem it necessary³².

Accounting of publishing and printing companies, as well as accounting of printed periodicals is carried out with the availability of a certificate from the State Committee for National Security of the Republic of Tajikistan.

Journalists were continuously subjected to persecution, and even to physical violence³³.

Despite the decriminalization of some articles related to misinformation, criminal prosecution of journalists is continuous on the ground of committing various alleged offences by them³⁴.

Impact of COVID-19 pandemic on the activity of mass media

During COVID-19 pandemic, mass media found themselves in an extremely challenging situation: advertisement incomes reduced, acquisition of information was almost impossible, with observed extremely poor performance of internet during online activities and pressure exerted by authorities. Personal protective equipment was not accessible to many journalists from independent mass media entities. Any topic related to the pandemic raised discontent among authorities. Physicians were not willing to give comments to journalists.

A website containing alternative information on the death cases allegedly caused by COVID-19 had been blocked in the country. In 2020, in the context of COVID-19 pandemic in Tajikistan, amendments were introduced to the Code of Administrative Offences of RT envisaging the introduction of administrative punishment for dissemination of incorrect and false information on the pandemic through mass media. For violation of this article, an offender will be held liable in terms of a penalty or administrative arrest for a term of 10 – 15 days.

³⁰ Source: <https://tj.sputniknews.ru/analytics/20210201/1032740529/tajikistan-yanvar-2021.html>

³¹ Source: <https://news.tj/ru/news/tajikistan/security/20170728/kommentiruite-ostorozhno-za-eto-mogut-i-posadit>

³² Source: <http://rus.ozodi.org/a/28374005.html>

³³ A journalist of "Asia-Plus", Abdulo Ghurbati, was twice beaten in May of 2020. Those guilty in the first attack were never found, and in the second attack they were found (three persons), with the court that passed a verdict on the charge of administrative infraction (disorderly conduct) and imposed a penalty in the amount of 10 standard units (for 2020 – TJS 580) on each person. Experts believe that those found guilty in beating should have been brought to criminal responsibility, as the attack occurred in the performance of the journalist’s duties.

³⁴ The well-known Tajik journalist, Daler Sharipov, was apprehended by the state national security officers on January 28, 2020. He was charged with inciting racial, parochial or religious strife. People suggested that the arrest of the journalist related to his active criticism of the state policy. According to some users of social media, the arrest of Daler Sharipov relates to the publication of his book “Muhammad and Terrorism”. While considering his case in the court, judge refused the presence in the courtroom of mass media representatives and civilian activists, due to the WHO’s recommendations for the prevention of COVID-19 spread. The court passed a verdict sentencing the journalist for one year of imprisonment in a standard regime penal colony. After having served his one-year sentence, on January 29, 2021 the journalist was released.

Recommendations:

1. Cease the persecution of journalists resulting from their professional activity and conduct in-depth investigation on the evidence of attacks against journalists, and bring to adequate responsibility those found guilty.
2. Cease the practice of illegal blocking of Internet-resources by the state regulating authority.
3. Provide access to information and freedom of speech to all mass media entities and organizations that cover issues of coronavirus infection control.
4. Provide public access to quality and inexpensive Internet.
5. Exclude from Procedure for the state accounting of publishing/printing activity and companies the requirement to furnish a certificate from the State Committee for National Security of RT.
6. Introduce amendments to the Law of RT “Concerning the legal status of an emergency situation” in accordance with the requirements of Article 19 of the International Covenant on Civil and Political Rights.
7. Exclude from the Criminal Code of RT the remaining articles related to wrongful communication.