



CURTAILING RIGHTS IN THE NAME OF STABILITY

Current trends in Tajikistan

May 2015



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This is an excerpt on Tajikistan from a briefing paper on fundamental rights in Kazakhstan, Tajikistan and Turkmenistan prepared by Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR), Nota Bene (Tajikistan), Turkmen Initiative for Human Rights (TIHR, based in exile in Austria) and International Partnership for Human Rights (IPHR, Belgium) within the framework of a joint project. It is based on the findings of monitoring conducted by Nota Bene in April 2014 to April 2015 and provides an overview of major concerns regarding freedom of expression and the media; freedom of association and assembly; as well as access to justice, non-discrimination and the protection of vulnerable groups in Tajikistan. IPHR has compiled the joint briefing paper.

Tajikistan

Brief overview of the general situation

In the parliamentary elections held in Tajikistan on 1 March 2015, the ruling People's Democratic Party of Tajikistan and three smaller parties (the Agrarian Party, the Party of Economic Reforms and the Socialist Party) secured all seats. Two opposition parties that previously had been represented in the law-making body, the Islamic Renaissance Party of Tajikistan (IRPT) and the Communist Party fell out.

Observers from the OSCE and the European Parliament¹ deemed the March parliamentary elections unfree and unfair, saying they took place in a "restricted political space", where the election campaign was controlled by the ruling party, opposition parties were harassed and obstructed, and voters were subjected to pressure. The observers also reported serious procedural violations on election day. Observers from the CIS and the CIS Inter-Parliamentary Assembly, however, assessed the elections as "free and democratic".²

The large community of Tajikistani labour migrants residing in Russia, among whom the IRPT is popular, had limited opportunities to vote since only three polling stations were opened in this country under recent amendments to the Election Law.³

In the recent period, pressure on the political opposition has increased in Tajikistan, and criticism of the authorities has increasingly been depicted as a threat to the stability of society. Media, civil society and lawyers operate in a worsening climate, and the pattern of arbitrary blocking of websites continues.

As highlighted during the recent UN review of the country's record on economic and social rights⁴, serious gaps remain in the protection of vulnerable groups, such as women, children, and migrants and their families left behind.

In preparation of the second UN Universal Periodic Review of Tajikistan, which will take place in April 2016, a government working group has been set up to prepare the national report and consultations are being held on the implementation of recommendations previously received by the country.

Freedom of expression and the media

Intimidation and harassment of media and journalists

Concerns about intimidation and harassment of media and journalists in Tajikistan were reinforced in connection with the parliamentary elections held on 1 March 2015.

In a joint statement issued ahead of the elections, the National Association of Independent Mass Media in Tajikistan (NANSMIT), the Journalists' Union and the Media Council of Tajikistan deplored threats and attacks against independent journalists and called for adequate measures to prevent and investigate such incidents. They noted, in particular, that **campaigns aimed at discrediting journalists** have been carried out in media and social media, such as by disclosing information about the private lives of journalists, which suggests that the authors have had access to information obtained unlawfully.⁵

NANSMIT also documented a number of cases when journalists were **prevented from carrying out their work** when covering the March parliamentary elections, such as by being denied access to polling stations on election day.⁶

There are reports indicating that media increasingly **engage in self-censorship** out of fear of repercussions, in particular in a situation when many outlets are struggling financially due to the

economic downturn.⁷ In a case that observers interpreted as an example of outright censorship, the weekly *Nigoh* was subjected to a temporary printing ban in December 2014 for allegedly failing to re-register and renew its license.⁸

While libel 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** also continue to be used as a form of retaliation against media and journalists.

In a high-profile case last year, the well-known independent Asia Plus newspaper and its editors Olga Tutubalina 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 and quoted a famous statement by Lenin: "The intelligentsia is not the brain of the nation, but its faeces."⁹ The lawsuit was submitted with the support of five state-funded bodies. The decision, which was upheld on appeal, was widely criticized as stifling free speech.

In another case that set a worrisome precedent, Tajikistani blogger and researcher Alexander Sodiqov was detained on spying accusations in June 2014. This happened when he was conducting field research on conflict resolution in the city of Khorog in the aftermath of clashes between police and residents taking place there (see more under "freedom of association and assembly"). According to the State Committee on National Security, he had been detained "while implementing a task for the security services of a foreign country".¹⁰ As a result of widespread international criticism, he was eventually released in July and allowed to return to his home in Canada in September.

Blocking of websites

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 such as Facebook, Twitter, YouTube and *Vkontakte* and other online resources.

The most extensive blocking to date took place in October 2014, when hundreds of websites suddenly were blocked after online calls were made for an anti-government rally to be held in the capital Dushanbe. (See more on this issue in the section on "freedom of association and assembly" below). Some of these websites still remain unavailable. The **government's Communications Service has denied responsibility** for the blocking of websites, typically blaming it on "technical problems". However, internet providers have indicated that they have received informal orders to block sites.

Mobile phone services have also repeatedly stopped functioning in connection with specific political events, without adequate explanation. For example, on the eve of the March 2015 parliamentary elections, text messaging services temporarily stopped working for the customers of all but one mobile phone provider in the country.¹¹ Similarly, text messaging services were disabled prior to the planned anti-government rally in October.

The pattern of repeated blocking of websites has been criticized by both civil society and the international community.¹² 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".¹³

Freedom of association and assembly

Growing insecurity for NGOs

Tajikistan's civil society is operating in conditions of growing insecurity. In the recent period, numerous NGOs have been singled out for **unscheduled, intrusive inspections** and several NGOs have been **closed down or threatened with closure** because of the alleged failure to comply with requirements of a technical nature. Last summer the Constitutional Court considered a complaint filed by the anti-torture NGO Amparo regarding its liquidation in 2012 on such grounds. The Court ruled that the current provisions of the Law on Public Associations that concern the closure of NGOs are not sufficiently clear and should be amended. However, up to now, no such amendments have been proposed.

Instead, the Ministry of Justice has elaborated other **problematic draft provisions concerning the funding of NGOs**. Proposed amendments to the Law on Public Associations that became known last November require NGOs to register all funds received from foreign and international sources with the government prior to using them, without specifying any minimum amount that this requirement applies to or elaborating on the registration procedure. Due to ambiguous wording, it is not clear whether funds from local donors also would have to be registered. The government has argued that the amendments are needed to meet recommendations of the Financial Action Task Force on Money Laundering, similarly to in other countries where problematic NGO legislation has been initiated.

The proposed amendments were **seriously criticized by civil society**, which objected to the lack of transparency surrounding the elaboration of the draft legislation and expressed alarm that it would introduce undue and discriminatory restrictions on access to NGO funding in violation of international standards.¹⁴ The UN Committee on Economic, Social and Cultural Rights has also expressed concern about the draft legislation, saying it “could have an adverse impact on the activities of civil society organizations”.¹⁵

After voicing criticism, NGOs were invited to discuss and make recommendations on the draft legislation, and the minister of justice assured that the registration requirement would not entail requesting permission to use grants. However, the draft amendments submitted to the parliament in late March 2015 remained vaguely worded, although they had been amended to say that NGO programs using funds subject to registration “is only allowed after *notifying* the registration body”. On 28 April 2015, parliamentary deputies held a meeting with government representatives and NGO leaders regarding the proposed amendments. The deputies said they would take into account all arguments presented when considering the draft legislation.

Restrictions on freedom of assembly

A new **Law on Assemblies** adopted in Tajikistan in late 2014 is **more restrictive than the previous one** and limits the right to hold peaceful assemblies in ways that are not compatible with international standards. In particular, it requires the organizers of assemblies to 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, which has been argued to be needed in view of current security threats, came at a time when authorities appear to be **increasingly concerned about possible mass protests**.

In October 2014, online calls for holding an anti-government rally in Dushanbe were followed by unprecedented security measures, widespread blocking of websites (see more in the section on “freedom

of media and expression”) and a court decision banning the opposition “Group 24” behind the calls as “extremist”. The planned event did not take place in the end. In March 2015, the exiled leader of “Group 24” was killed in Istanbul under unclear circumstances. An investigation is under way by Turkish authorities.

In May 2014, three people were killed and several injured during clashes between police and local residents that broke out in connection with a law enforcement operation in the city of Khorog in the Gorno-Badakhshan Autonomous Oblast (GBAO). An investigation into these events was initiated, but no results have been made public up to now. Following the Khorog events, public officials accused foreign states of seeking to “destabilize” the situation in the country¹⁶, and Tajikistani blogger and researcher Alexander Sodiqov was detained on spying accusations (see more in the section on “freedom of expression and the media”).

Controversial messages by religious leaders

A **controversial fatwa** adopted by Tajikistan’s *Ulemas Council* in September 2014 declared “agitation” against the authorities, as well as cooperation with international and national organizations, political parties and media that seek to “destabilize” Tajik society as sinful.

Imams at state-controlled mosques have also repeatedly delivered **sermons carrying messages directed against the political opposition**. For example, imams were heard calling on believers to vote for the ruling party in the parliamentary elections on 1 March 2015, and later to suggest that the largest opposition party, IRPT, should be banned.¹⁷ The IRPT faced difficulties campaigning for the parliamentary elections and the party and its members were subjected to **smear campaigns in state media and social media**.¹⁸ Other political opposition parties and their representatives have also faced growing harassment.

Access to justice, non-discrimination and the protection of vulnerable groups

Concerns related to legal reform

A new **Program on Judicial Reform** in Tajikistan in 2015-2017 was adopted at the beginning of this year. The stated objective of this program is to strengthen the judicial system and the protection of the rights of citizens in the administration of justice, including among others by developing the provision of free legal assistance.¹⁹ The program was elaborated with only **limited consultation of civil society** and the country’s lawyers’ community was not granted the opportunity to actively contribute to the process.

A new **Law on the Bar and the Practice of Law** was adopted by the parliament and signed by the president in March 2015. This law poses a **threat to the independence of the legal profession** as it introduces a new qualification procedure for lawyers that will be administered by a body in which the Ministry of Justice will play a prominent role. Recommendations made by the lawyers’ community, civil society and international organizations on this issue were not reflected in the law prior to its adoption.

Persecution of lawyers

In the recent period, there have been **growing concerns about the persecution of lawyers** for their professional activities, as highlighted in a statement by Tajikistani civil society organizations and representatives of the bar issued last summer.²⁰

In January 2015, a Dushanbe court found well-known lawyer Shukhrat Kudratov guilty of bribery and fraud and sentenced him to nine years in prison and barred him from practicing law for two years upon

release. The charges against him are believed to have been motivated by his professional activities, including his work on human rights related cases and cases involving public figures, such as that of businessman and opposition figure Zaid Saidov who was imprisoned in December 2013. Following Saidov's conviction, Kudratov continued to speak out on this case, including intimidation faced by him and other members of Saidov's legal team. In addition to his work on politically sensitive cases, Kudratov is a member of the opposition Social Democratic Party. In March 2015, the verdict against Kudratov was upheld on appeal by the Supreme Court, which changed the sentence to five years in prison and a huge fine of 87 000 Somoni (some 13 000 EUR). The ruling in this case has been widely criticized.

Another of Saidov's lawyers, Fahriddin Zokirov was released in November 2014 after spending months in custody on similar charges as Kudratov.

Inadequate protection of socio-economic rights and vulnerable groups

In February 2015, the **UN Committee on Economic, Social and Cultural Rights** examined the implementation of the corresponding UN covenant in Tajikistan. Its findings show that the Tajikistani authorities have **failed to take adequate measures to implement many of the recommendations** made when the situation in the country was first assessed in 2006.²¹

The Committee²² raised concerns, among others, about the lack of effective remedies for violations of economic, social and cultural rights, the continued absence of a comprehensive anti-discrimination law, and pervasive and systematic corruption in the public sector. It paid particular attention to the rights of women and criticized entrenched gender stereotypes and discrimination, gender segregation and income gaps in the labour market, as well as widespread prevalence and impunity for domestic violence. It deplored the low quality of education due to the lack of qualified teachers and teaching materials, the decrease in instruction in ethnic minority languages, and high dropout rates among girls and children from disadvantaged families. It also expressed concern about insufficient measures to protect the rights of other vulnerable groups, such as labour migrants and their families left behind, disabled people, and asylum seekers and refugees. The concerns raised by the Committee largely reflected those voiced by Tajikistani NGOs in their contributions to the review.²³

As many as one million Tajikistani labour migrants have been estimated to be working in Russia, and in 2013 remittances sent home by labour migrants amounted to about half of Tajikistan's GDP, one of the highest rates in the world. However, recently a growing number of labour migrants have been reported to be leaving Russia due to the depreciation of the ruble and the entry into force of new restrictive migration rules. NGOs are concerned that the Tajikistani authorities have done little to prepare for the possible mass return of migrants and to promote the re-integration of returnees, including by creating employment opportunities.²⁴

Other issues related to discrimination

In a speech held on the occasion of this year's Mother's Day, which is celebrated on 8 March in Tajikistan, President Rakhmon criticized the wearing of veils and other clothing of black colour by Tajikistani women. He said that this practice is "alien" to national culture and called on state institutions to prevent it.²⁵

Shortly after this, reports surfaced about **law enforcement raids on bazaars and stores** deemed to be **selling "inappropriate" clothing**, while programs aired on national TV appeared aimed at discrediting those wearing hijabs by featuring interviews with sex workers dressed in such garment. Media have also reported about cases where **bearded Muslim men have been forcibly shaved**. Civic and religious activists have criticized these measures as violations of the right to privacy, as well as the right to freedom of religion and non-discrimination.²⁶ At the same time, representatives of the Ministry of Internal Affairs have stated that no official orders had been given for measures of this kind and that all

complaints submitted by citizens concerning unlawful actions by law enforcement officials will be investigated.²⁷

In another development, law enforcement authorities carried out **raids in the name of fighting so-called crimes against morality** in June 2014, detaining hundreds of sex workers and photographing, fingerprinting and forcing them to undergo medical tests for sexually transmitted diseases. The raids and detentions were characterized by due process violations and those targeted reported facing insults, ill-treatment and blackmail attempts. According to official information, some individuals were detained on **suspicion of “homosexual behaviour”**, although homosexuality is not an offense in Tajikistan.²⁸ NGOs who came out in defence of the rights of those targeted by the raids, and expressed concern about these measures in light of international human rights standards were denounced in an open letter signed by “intellectuals”.

Recommendations

Freedom of expression and the media

The authorities of Tajikistan should:

- Publicly welcome and encourage open debate on issues of public interest; condemn intimidation and harassment of media and journalists; and ensure that any such incident is thoroughly and impartially investigated and those responsible brought to justice.
- Refrain from measures obstructing media and journalists who are covering developments of public interest and facilitate their access to information for this purpose.
- Abolish the remaining criminal provisions on insult and limit the amount of moral damages that can be awarded in defamation lawsuits.
- 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

The authorities of Tajikistan should:

- Refrain from adopting the draft amendments on registration of NGO funding now under consideration and respect the right of NGOs to have unimpeded access to funding for their work, including from sources abroad.
- Amend provisions of the Law on Public Associations and related legislation concerning oversight and inspections, as well as suspension and liquidation of NGOs to ensure that they are clear, unambiguous and fully consistent with Tajikistan’s international human rights obligations.
- Bring the provisions of the new Law on Assemblies into compliance with international human rights standards and promote conditions in which freedom of peaceful assembly can be freely exercised.
- Consult and involve civil society in any efforts to amend legislation directly affecting it, ensure transparency of lawmaking processes and draw on international expert assistance and international best practices when preparing draft legislation.
- Ensure that political opposition parties can operate without obstruction and take effective measures, in accordance with the recommendations made by independent international observers and human rights bodies to open up political space.

Access to justice, non-discrimination and the protection of vulnerable groups

The authorities of Tajikistan should:

- Revise the Law on the Bar and the Practice of Law in line with the recommendations made by lawyers, civil society and international organizations to ensure that it protects and guarantees the independence of the legal profession.
- Implement effective measures to put an end to threats and harassment of lawyers because of their professional activities and ensure that no lawyer is arrested, charged or imprisoned in retaliation for the cases they work on. Promptly release lawyer Shukhrat Kudratov.
- Take concrete and systematic steps to implement the recommendations made by the CESCR, including by adopting a comprehensive, realistic and result-oriented action plan in close cooperation with civil society organizations, as well as working with such organizations on the realization of this plan.
- Refrain from exploiting concerns about protecting national stability or values or counteracting “immorality” to implement measures that infringe fundamental rights or undermine the principle of non-discrimination in violation of national and international law.

¹ See statement of preliminary findings and conclusions of the OSCE Parliamentary Assembly, the OSCE Office for Democratic Institutions and Human Rights and the European Parliament, 2 March 2015, at <http://www.osce.org/odihr/elections/tajikistan/143306?download=true>

² See “CIS election observation mission assesses Tajik parliamentary elections free and democratic”, 2 March 2015, at <http://news.tj/en/news/cis-election-observation-mission-assesses-tajik-parliamentary-elections-free-and-democratic>

³ “Участие таджикских мигрантов в выборах 2015 под вопросом”, 4 December 2014, at <http://rus.ozodi.org/content/article/26724299.html>

⁴ See Concluding observations of the Committee on Economic, Social and Cultural Rights on the second and third periodic reports of Tajikistan, March 2015, at

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fTJK%2fCO%2f2-3&Lang=en

⁵ The statement (in Russian) is available at: <http://nansmit.tj/sovместnoe-zayavlenie-zhurnalistskih-organizatsiy-respubliki-tadzhikistan/>

⁶ “НАНСМИТ зафиксировал ряд нарушений прав журналистов в день выборов”, 4 March 2015, at <http://nansmit.tj/nansmit-zafiksiroval-ryad-narusheniy-prav-zhurnalistov-v-den-vyiborov/>

⁷ Radio Ozodi, “Что сломит стан таджикской прессы? Интервью с пятью главными редакторами,” 12 March 2015, at <http://rus.ozodi.org/content/article/26896132.html>

⁸ See НАНСМИТ, «Запрет издания газеты «Нигох»: уроки одного инцидента», 30 December 2014, <http://nansmit.tj/zapret-izdaniya-gazetyi-nigoh-uroki-odnogo-intsidenta/>

⁹ The article entitled “Unintelligently about the intelligentsia” is available at <http://news.tj/tj/node/146951> (posted here on 30 May 2013).

¹⁰ See statement issued by the SCNS in the Gorno-Badakhshan Autonomous Oblast on 17 June 2014, at <http://khovar.tj/rus/security/41306-zayavlenie-ugknb-rt-po-gbao.html>

¹¹ “Сотовые операторы Таджикистана отключили услугу смс”, 1 March 2015, at <http://news.tj/ru/news/sotovye-operatory-tadzhikistana-otklyuchili-uslugu-sms>

¹² See statement “Stop blocking websites in Tajikistan!”, 20 October 2014, at <http://www.iphronline.org/tajikistan-internet-statement-20141020.html>

¹³ “Repeated blocking of websites in Tajikistan a worrying trend, says OSCE media freedom representative”, 7 October 2014, at <http://www.osce.org/fom/125218>

¹⁴ See appeal signed by over 90 Tajikistani, foreign and international NGOs, “Tajikistan: Drop draft legislation restricting access to NGO funding”, 25 November 2014, at: <http://www.iphronline.org/tajikistan-ngo-law-appeal-20141125.html>

¹⁵ Par. 10 of CESCR Concluding observations on the combined second and third periodic reports of Tajikistan, 6 March 2015.

¹⁶ See “Беспорядки в ГБАО Таджикистана вызывают опасения более широкой дестабилизации”, 12 June 2014, at <http://catoday.org/centrasia/tjru/14748-besporyadki-v-gbao-tadzhikistana-vyzyvaet-opaseniya-bolee-shirokoy-destabilizacii.html>

¹⁷ See the following Eurasia Net articles: “Is Tajikistan’s Islamic Party Cracking Under Pressure?”, 30 March 2015, at <http://www.eurasianet.org/node/72786> and “Tajikistan’s Clergy Urges Support for President’s Party in Weekend Vote”, 27 February 2015, at <http://www.eurasianet.org/node/72311>

¹⁸ For more info on this issue, see for example Norwegian Helsinki Committee, “Opposition parties ousted from parliament”, 6 March 2015, at http://nhc.no/no/nyheter/Opposition+parties+ousted+from+parliament.b7C_wlrG0v.ips

¹⁹ The Program on Judicial Reform, as approved by the president on 5 January 2015, is available at: http://www.minjust.tj/index.php?option=com_content&view=article&id=92%3A600-&catid=33%3A2014-09-30-07-52-08&Itemid=107&lang=en

²⁰ The statement issued on 28 July 2014 is available at: <http://notorture.tj/en/statements/joint-statement-tajik-civil-society-organizations-connection-detention-lawyer-shuhrat>

²¹ See statement by the Tajikistani NGO coalition on promoting economic and social rights, the Netherlands Helsinki Committee and International Partnership for Human Rights, “Tajikistan: Findings of UN Committee on Economic, Social and Cultural Rights should serve as a roadmap for change”, 20 March 2015, at <http://www.iphronline.org/tajikistan-findings-of-un-cescr-should-serve-as-a-roadmap-for-change-20150320.html>

²² See Concluding observations of the Committee on Economic, Social and Cultural Rights on the second and third periodic reports of Tajikistan, March 2015, at

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fTJK%2fCO%2f2-3&Lang=en

²³ See “Tajikistan: UN review of economic, social and cultural rights”, 24 February 2015, at <http://www.iphronline.org/tajikistan-un-review-of-economic-social-and-cultural-rights-20150224.html>

²⁴ For more information on this, see submission by Tajikistani NGO coalition to the Committee on Economic, Social and Cultural Rights for its review of Tajikistan in February 2015, at

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fCSS%2fTJK%2f19278&Lang=en

²⁵ See “Эмомали Рахмон осудил “чуждые таджикам” черные одеяния женщин”, 6 March 2015, <http://news.tj/ru/news/emomali-rakhmon-osudil-chuzhdye-tadzhikam-chernye-odeyaniya-zhenshchin>

²⁶ See “Борода и хиджаб - признаки радикализма в Таджикистане?”, 11 May 2015, at http://www.bbc.co.uk/russian/international/2015/05/150511_tajikistan_beads

²⁷ See “МВД Таджикистана отрицает наличие приказа о принудительном бритье бород”, 21 April 2015, at <http://www.regnum.ru/news/polit/1917549.html#ixzz3a8ESuDC>

²⁸ See “Tajikistan: Open letter about measures taken in the fight against so-called crimes against morality”, 18 June 2015, at <http://www.iphronline.org/tajikistan-open-letter-about-fight-against-so-called-crimes-against-morality-20140618.html>