



Submission to the United Nations Human Rights Committee

Information on State Parties to be Examined – Tajikistan

126th session (1 July – 26 July 2019)

Freedom Now welcomes the opportunity to contribute information to the Human Rights Committee prior to its third period review of the Republic of Tajikistan (“Tajikistan”).

Freedom Now is a non-partisan, non-governmental organization (“NGO”) dedicated to protecting human rights and rule of law by working to eliminate the politically motivated harassment and imprisonment of those who peacefully advocate for and exercise their fundamental rights.

This submission provides information about Tajikistan’s abuse of rule of law and human rights which it uses to root out opposition and dissent. This submission emphasizes the government’s baseless and politically motivated prosecutions, detention, and maltreatment of political oppositionists, activists, and lawyers. Such practices violate the Tajikistan’s obligations under the International Covenant on Civil and Political Rights (“ICCPR”).

I. Counter-terrorism and anti-extremism measures (Articles 4, 9, 14, 17-19, and 21-22 of the ICCPR)

In the List of Issues in Relation to the Third Periodic Report of Tajikistan (“List of Issues”), the Committee requested that Tajikistan “respond to reports that counter-terrorism and anti-extremism legislation is being misused to suppress the legitimate exercise of freedoms of religion and expression, including political dissent.”¹ Tajikistan responded by providing a list of conferences it held in Dushanbe on the topic of counter-terrorism.²

The Tajik government continues to use specialized national security laws, including the Counter-Terrorism Act (1999) and the Anti-Extremism Act (2003), to target groups and imprison people who oppose or criticize Rahmon’s government.³ Other laws such as the Law on Combatting Terrorism (1999) are used to ban peaceful political opposition groups, such as the Islamic Renaissance Political Party of Tajikistan (“IRPT”), Group 24, and Youth for the Revival of Tajikistan and to ban distribution of such group’s newspapers, videos, audio recordings, literature, and leaflets.⁴ The government also takes advantage of terrorism charges to hide its abuses, such as holding closed trials, under the rubric of protecting national security secrets.

¹ *List of issues in relation to the third period report of Tajikistan*, UN Human Rights Committee (Nov. 29, 2018), U.N. Doc. CCPR/C/TJK/Q/3, ¶ 5 (hereinafter “List of issues”).

² *Addendum to the list of issues in relation to the third period report of Tajikistan*, UN Human Rights Committee (April 30, 2019), U.N. Doc. CCPR/C/TJK/Q/3/Add.1, ¶¶ 34-61 (hereinafter “Addendum to the list of issues”).

³ Among the charges brought against IRPT leaders were Article 179 (terrorism), Article 187 (criminal organization), Article 307 (extremism), and Article 306 (forcible capture of power) of the Tajikistan Criminal Code.

⁴ The Supreme Court of Tajikistan used the Law on Combatting Terrorism (1999) to ban all future activities by the IRPT, including distribution of newspapers, videos, audio recordings, literature, and leaflets connected to the IRPT. See Catherine Putz, *Tajikistan’s Terror Group List Just Got Bigger*, *The Diplomat* (Sept. 30, 2015), <http://thediplomat.com/2015/09/tajikistans-terror-group-list-just-got-bigger/>; Casey Michel, *Trouble in Tajikistan*, *Al Jazeera* (Nov. 5, 2015), <http://www.aljazeera.com/indepth/features/2015/11/trouble-tajikistan-151104085616528.html>.

The government has spent considerable resources to disband and imprison senior leadership of the IRPT, which at the time of dissolution was the largest opposition party in Tajikistan, employing national security laws to do so. On September 16, 2015, senior IRPT leaders, including deputy chairman Mahmatali Hayit, were arrested after being accused of participating in a failed coup. On September 29, 2015, the Supreme Court issued a ruling banning the IRPT and labeling it a terrorist organization. Because the charges against the IRPT leaders involved national security all hearings were closed to the public and took place in the State Committee for National Security pre-trial detention facility in Dushanbe rather than in a courtroom. Despite a lack of evidence, on June 2, 2016, the Supreme Court sentenced the IRPT leaders to lengthy sentences; Hayit was given life in prison. In May 2018, the UN Working Group on Arbitrary Detention issued an opinion in which it determined that Hayit's detention violated articles 9, 14, 19, 21, and 25 of the ICCPR and called for his immediate release.⁵ A petition regarding 11 other senior IRPT leaders was filed in May 2019 and is pending before the Working Group.

In a disturbing development (mentioned in section IV below), the courts targeted the lawyers who represented IRPT members. Hayit's initial lawyer was arrested before the proceedings even began. The lawyer—Buzurgmehr Yorov—was arrested the same day the Supreme Court banned the IRPT. It is believed his arrest was motivated by an interview Yorov gave in which he announced Hayit and another IRPT leader had been tortured in pre-trial detention and called for a coalition of lawyers to join him in representing the detained IRPT members. Yorov was eventually sentenced to 23 years in prison, but his sentence was increased to 28 years after being found guilty in an additional two trials for other trumped-up crimes. In May 2019, the UN Working Group on Arbitrary Detention issued an opinion in which it determined that Yorov's detention violated articles 2, 9, 14, 15, 19, 21, 25, and 26 of the ICCPR and called for his immediate release.⁶ Yorov's law partner—Nuriddin Makhkamov, who had attempted to defend Yorov after his arrest—was also arrested, tried jointly with Yorov on extremism charges, and sentenced to 21 years in prison.

Recommendations to Tajikistan

- 1. Immediately and unconditionally release and rehabilitate the civil and political rights of political opposition leaders, lawyers, and all other individuals detained under national security or extremism charges for exercising their fundamental human rights.*
- 2. Revise the Counter-Terrorism Act (1999), the Anti-Extremism Act (2003), and the Criminal Code to comply with international standards.*

II. Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (Article 7 of the ICCPR)

In the List of Issues, Tajikistan was asked to respond to allegations of torture or ill treatment of persons deprived of their liberty, particularly those who have been detained on politically motivated charges. The Committee requested information on investigations into torture and the failure to conduct criminal

⁵ *Opinion No. 2/2018 concerning Haritos Mahmatali Rahmonovich*, UN Working Group on Arbitrary Detention (May 17, 2018), U.N. Doc. No. A/HRC/WGAD/2018/2.

⁶ *Opinion No. 17/2019 concerning Buzurgmehr Yorov*, UN Working Group on Arbitrary Detention (May 24, 2019), U.N. Doc. No. A/HRC/WGAD/2019/17.

prosecutions of those allegedly responsible.⁷ In response, Tajikistan made note of 114 complaints of torture it received between 2013 and 2018. The government initiated criminal cases in less than ten percent of the cases and has convicted only five people.⁸

Torture and other forms of cruel, inhuman, or degrading treatment are endemic in Tajik police stations, prisons, and other places of detention throughout the country. Although torture is prohibited by Article 18 of the Constitution and Article 143(1) of the Criminal Code, law enforcement officers routinely torture and mistreat individuals in order to extract self-incriminating evidence, confessions, and money. Authorities are especially known to torture and abuse people who they are targeting on political grounds. Individuals accused of being threats to national security, including members of religious movements and Islamist groups or parties, are at particular risk of arbitrary arrests, *incommunicado* detention, torture and other ill-treatment.

For example, in August 2016, representatives of Tajikistan's civil society reported that two political prisoners linked to the IRPT, Kurbon Mannonov and Nozimdzhon Tashripov, were killed in prison. Tashripov's body showed visible signs of torture and his neck had been broken.⁹ In the Addendum to the List of Issues, Tajikistan maintains that both these men died of natural causes.¹⁰

Hayit has also been tortured while in prison. He was severely beaten when he arrived at prison post-conviction, and the abuse worsened over time. Hayit has been held in solitary confinement for most of his sentence. In March 2019, Hayit showed his wife injuries on his forehead and stomach that he said were caused by beatings from prison officials to punish him for refusing to record videos denouncing Tajik opposition figures abroad. To date, Hayit has not received proper medical treatment for these injuries.¹¹

Yorov also suffered broken bones in September 2017 as the result of beatings endured while in prison. He has been forced to stand naked, and the beatings have been accompanied by humiliation and insults.

As discussed in section III below, the denial of medical care, solitary confinement, and/or the subjection of a detainee to particularly harsh prison conditions may also constitute cruel and inhumane treatment.

Recommendations to Tajikistan

1. *Thoroughly investigate all cases of torture or ill-treatment. Ensure that perpetrators of such abuses are held accountable and that victims of such abuses are appropriately rehabilitated and compensated.*

⁷ *List of issues*, ¶ 11, *supra* note 1.

⁸ *Addendum to the list of issues*, ¶ 130-132, *supra* note 2.

⁹ *Statement by the Representatives of Tajikistan's Civil Society about the Status of Political Prisoners*, Amnesty International (Aug. 22, 2016), available at <https://blogs.exeter.ac.uk/excas/2016/08/22/statement-by-the-representatives-of-tajikistans-civil-society-about-status-of-political-prisoners/>.

¹⁰ *Addendum to the list of issues*, ¶159, *supra* note 2.

¹¹ *Tajikistan: Release Gravely Ill Activist*, Human Rights Watch (March 20, 2019), available at <https://www.hrw.org/news/2019/03/20/tajikistan-release-gravely-ill-activist>.

III. Liberty and security of person and treatment of persons deprived of their liberty (Articles 6-7 and 9-10 of the ICCPR)

In the List of the Issues, the Committee expressed concern about life-threatening prison conditions.¹² Tajikistan responded with statistics about deaths reported and details of specific cases.¹³

Although it has been very difficult for international observers to gain access to prisons and detention facilities to fully review the state of Tajikistan's prison conditions, reports show that prison conditions in Tajikistan are poor to the point of being life threatening for prisoners. As of 2015, the Tajik government operated ten prisons and twelve pretrial detention facilities.

Disturbingly, in less than a year Tajikistan experienced two deadly prison riots that claimed the lives of nearly 100 individuals. The first riot occurred in November 2018 at maximum-security Prison 3/3 and reportedly resulted in the deaths of 50 prisoners.¹⁴ The Tajik government did not publicly acknowledge the riot until two weeks later.¹⁵ A criminal case was initiated against the rioters in February 2019, but the trial was closed to the public.¹⁶ The second riot occurred in May 2019 at the maximum security Kirpichniy Prison in the Vahdat district and reportedly resulted in the deaths of 29 prisoners.¹⁷ Among the prisoners killed at Kirpichniy were IPRT members Sattor Karimov, Saeed Qiyomiddin Ghozi, and Jomahmad Boev. Several other IRPT members were injured during the riot. Both riots were instigated by members of the Islamic State. Reportedly at Kirpichniy, members of the Islamic State sought out IRPT members and members of other religious minority groups. Zayd Saidov, an opposition politician, was also targeted by Islamic State members, but was unharmed.

As the Committee notes in its List of Issues, prisoners sentenced to life imprisonment are held in particularly harsh conditions.¹⁸ Prisoners are often confined in virtual isolation in their cells for up to 23 hours a day in small, cramped, unventilated cells, often in extreme temperatures, and they are subject to inadequate nutrition and sanitation arrangements; denial of contact with lawyers and only rare contact with family members; excessive use of handcuffing or other types of shackles or restraints; physical or verbal abuse; lack of appropriate health care (physical and mental); and denial of access to books, newspapers, exercise, education, employment and/or any other type of prison activities.

Hayit, who is serving a life sentence, is allegedly subject to frequent abuse while being held at Prison No. 1 in Dushanbe; in addition to the torture which he has suffered (discussed above), he has been held in long-term solitary confinement, in extreme temperatures without proper clothing, and denied regular access to his family and lawyers. When his wife is able to visit him—once every six months—he is unable to speak with her privately.

¹² *List of issues*, ¶ 13, *supra* note 1

¹³ *Addendum to the list of issues*, ¶ 144-160, *supra* note 2.

¹⁴ *At Least 50 Inmates Were Killed In Tajik Prison Riot, Sources Say*, Radio Free Europe/Radio Liberty (Nov. 13, 2018), available at <https://www.rferl.org/a/at-least-50-inmates-were-killed-in-tajik-prison-riot-sources-say/29597824.html>.

¹⁵ *Tajikistan Makes First Comments About Prison Riot*, Radio Free Europe/Radio Liberty (Nov. 21, 2018), available at <https://www.rferl.org/a/six-officers-of-tajik-prison-arrested-after-deadly-prison-unrest-sources/29613500.html>.

¹⁶ *Trial of inmates in fatal Khujand prison riot will be held behind closed doors*, Asia Plus (Feb. 22, 2019), available at <https://news.tj/en/news/tajikistan/laworder/20190222/trial-of-inmates-in-fatal-khujand-prison-riot-will-be-held-behind-closed-doors>.

¹⁷ *Tajikistan prison riot kills prominent opposition members*, Al Jazeera (May 21, 2019), available at <https://www.aljazeera.com/news/2019/05/tajikistan-prison-riot-kills-prominent-opposition-members-190521110034550.html>.

¹⁸ *List of issues*, ¶ 13, *supra* note 1.

Overcrowding in prisons is common, a problem which has been exacerbated by the Tajik government's practice of holding detainees in extended pre-trial detention before moving them to detention facilities post-conviction. For example, Yorov was held in pre-trial detention for about eight months, where he was regularly beaten and held in solitary confinement. Hayit was held in pre-trial detention for more than four months before he was sentenced to life in prison. Saidov was held in pre-trial detention for seven months, and was only allowed to meet his attorney confidentially once before his trial.¹⁹

UN agencies have reported that infection rates of tuberculosis and HIV in Tajikistan's prisons are significant problems, and that the quality of medical treatment is poor. For instance, Hayit who suffers from liver and kidney problems, has been denied regular access to the necessary medication and nutritious food. The treatment of Saidov, described above, has exacerbated his existing ailments and created additional medical conditions. Without proper food, treatment and rest Saidov suffers from excruciating stomach pains. A lesion in his stomach, which had previously healed, opened again when Saidov was in solitary confinement, and his stomach began to bleed. Because Saidov suffers from so much foot pain, his mobility has been decreased—a factor which makes his standing in line for lengthy periods while awaiting his bi-hourly check-ins even more painful and taxing. The prison has not allowed Saidov to see a specialist, nor has it made any accommodation for Saidov's disability.²⁰

Recommendations to Tajikistan

1. *Thoroughly investigate all cases of deaths in custody. Ensure that perpetrators of such abuses are held accountable.*
2. *Ensure inmates have adequate sanitation facilities, access to hygienic products, regulated temperature conditions, regular provision of nutritional food and clean water, and visitation rights.*
3. *Ensure that detainees' right to release pending trial is respected.*

IV. Right to a fair trial and independence of the judiciary (Article 14 of the ICCPR)

The Committee asked Tajikistan to respond to allegations of due process violations and the lack of independence of the judiciary.²¹ Tajikistan cited the Constitution and several domestic laws as proof the judiciary is independent.²²

The Tajik judiciary suffers from improper political influence, lack of resources, and an inability to protect the due process rights of citizens. President Emomali Rahmon and his administration exert undue influence over the judiciary. The president possesses the power to appoint and dismiss judges, with few constitutional checks and fewer political checks to stop him. He also holds the power to appoint and dismiss prosecutors; as a result, government officials are rarely prosecuted for human rights abuses.²³ Moreover, judicial proceedings in Tajikistan are riddled with corruption. Reports of bribery are

¹⁹ *Tajikistan: Long Sentence a Blow to Free Expression*, Human Rights Watch (Feb. 7, 2014), available at <https://www.hrw.org/news/2014/02/07/tajikistan-long-sentence-blow-free-expression>.

²⁰ He only has one hand.

²¹ *List of issues*, ¶ 17, *supra* note 1.

²² *Addendum to the list of issues*, ¶ 174-242, *supra* note 2.

²³ *Tajikistan 2014 Human Rights Report*, U.S. Department of State, available at <https://www.state.gov/documents/organization/236864.pdf>, pg. 7.

common—an unsurprising effect of the low wages afforded to judges and prosecutors.²⁴ Although trials are supposed to be public, the government has conducted politically motivated court cases behind closed doors on the pretext that national security was implicated.²⁵

The Tajik judiciary also lacks the resources it needs to function effectively as an independent branch of government. The judiciary lacks the resources to calendar, manage, or adjudicate cases effectively.²⁶ Judges are paid very little—and defense counsel even less—leaving them vulnerable to corruption and bribery.²⁷ The judiciary is not considered a prestigious career path; from the start, law schools lack funding and facilities, even textbooks, as a means by which to offer students a functional education. Schools instead provide a theoretical introduction to the study and practice of law.²⁸

As a result of these deficiencies and intentional abuse by authorities, citizens are denied the due process protections enumerated by the Constitution. Arbitrary arrests are commonplace.²⁹ There is no requirement of warrants for arrest, which allows police or security officials license to arrest or detain citizens with little to no immediate oversight. Although the government typically provides a rationale for arrests, reports of falsified charges abound. In addition, detainees are often not afforded the right to promptly challenge their detention before a judicial office.³⁰ For instance, the UN Working Group on Arbitrary Detention found that the government had violated Hayit's *habeas corpus* rights when it held him *incommunicado* for three days.³¹

Such arbitrary arrests are too often accompanied by violations of a detainee's right to privacy, as warrantless searches are conducted to obtain incriminating evidence. For instance, after Yorov's arrest his home, his law office and his father's home were all searched and certain objects and documents seized—including documents covered by client-attorney privilege—all without a search warrant.

Defendants are frequently denied the right to an attorney during pretrial and investigatory periods, particularly in politically sensitive cases. Hayit, for instance, was denied access to counsel for 10 days after his arrest and even after he was finally granted access the government monitored all communications between Hayit and his attorneys. Yorov was also not given immediate and consistent access to his lawyers and the government mounted a campaign of harassment and intimidation against his attorneys which ultimately resulted in the resignation of his first attorney, the arrest of his second attorney, the fleeing of the country by his third attorney, and the inability of his family to secure the services of any further counsel.

Although defense lawyers have the right to review evidence, to confront and question witnesses, and to present their own evidence, in practice courts do not always adhere to these rights and give prosecutorial testimony far greater deference. Defense counsel may be denied access to the prosecution's evidence, as occurred in the trial of the IRPT leaders, and may not be permitted to fully present a defense of their

²⁴ *Id.*, pg. 8

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Judicial Reform Index for Tajikistan*, American Bar Association (Dec. 2008), available at

http://www.americanbar.org/content/dam/aba/directories/roli/tajikistan/tajikistan_jri_12_2008_en.authcheckdam.pdf.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Opinion No. 2/2018 concerning Haritos Mahmadali Rahmonovich*, UN Working Group on Arbitrary Detention (May 17, 2018), U.N. Doc. No. A/HRC/WGAD/2018/2, ¶ 52.

client, as occurred in the case of Yorov’s first trial, where the judge denied the defense time to present their case. Convictions in politically motivated cases are often based on flimsy or tainted evidence. Yorov, for instance, was allegedly convicted of extremism based on solely on his law firm partner’s possession of literature that was critical of the government (and an expert opinion that classified such literature as extremist). Judges frequently defer to the executive branch, finding nearly all defendants guilty; a Freedom House report noted that the rate of acquittal is almost zero.³² This finding highlights the fact that defendants in political-prosecutions are not afforded a presumption of innocence; there have been several instances of high ranking government officials of state-owned media publicly concluding that a defendant is guilty prior to the end (or even start) of the trial, as occurred in both the case of the IRPT leaders and Yorov.

These issues are often exacerbated on alleged terrorism or national security cases. Tribunals overseeing such cases may be improperly constituted; for instance, with a military judge overseeing a civilian trial. Moreover, cases and verdicts that purport to deal with national security issues are usually held in secret. Although Article 14(1) of the ICCPR does allow for the public to be excused from a trial for reasons of national security, it still requires that “any judgement rendered in a criminal case or in a suit at law shall be made public.”³³ The UN Working Group on Protecting Human Rights While Countering Terrorism has confirmed that “[a]ny restrictions on the public nature of a trial, including for the protection of national security, must be both necessary and proportionate.”³⁴ Any such exclusion of the public for reasons of national security “should nevertheless be accompanied by adequate mechanisms for observation or review to guarantee the fairness of the hearing” and the exclusion of the public should be limited only those portions of the hearing in which it is necessary.³⁵

In stark contrast to these principles, the government has attempted to hold most trials where there is an alleged national-security concern behind closed doors. For instance, the IRPT leaders were tried in a closed door trial before a specially constituted court (presided over by the Chief Military Judge) that began on February 9, 2016. The government justified its secrecy based on its own bare assertion that the proceedings needed to be “classified”; it made no effort to explain how it was “necessary and proportionate” to exclude the public nor to set up other mechanisms for observation which might guarantee the fairness of the proceedings. The public was also excluded from the entirety of the trial, not just from those hearings where information allegedly sensitive to national security was presented.

Moreover, courts overseeing the appeals of flawed processes do not conduct a meaningful review of the trial or the allegations of due process violations. Instead, appellate courts merely restate and adopt the reasoning of the courts below. In the case of Saidov, for instance, the same court which adjudicated his trial also served as the court of appeals following his second conviction.

³² *Freedom in the World 2016*, Freedom House, available at <https://freedomhouse.org/report/freedom-world/2016/tajikistan>; see also *Tajikistan 2015 Human Rights Report*. (During the first six months of the year, there were four acquittals in 5,981 cases, of which two were full acquittals, and the remaining two were partial acquittals with convictions on lesser charges.)

³³ *General Comment No. 32: Article 14: Right to Equality before the Courts and Tribunals and to a Fair Trial*, UN Human Rights Committee, 90th Session, U.N. Doc. CCPR/C/GC/32 (Aug. 23, 2007), available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f32&Lang=en, ¶ 29.

³⁴ *Basic Human Rights Reference Guide: Right to a Fair Trial and Due Process in the Context of Countering Terrorism*, United Nations Working Group on Protecting Human Rights While Countering Terrorism (Oct. 2014), available at <http://www.ohchr.org/EN/newyork/Documents/FairTrial.pdf>.

³⁵ *Id.*, at § 3.2.

The Committee requested Tajikistan respond to “persistent reports of harassment, intimidation and pressure on lawyers representing defendants in politically sensitive cases or cases related to national security and counter-terrorism.”³⁶ Tajikistan neglected to respond to this request, and instead reiterated the charges made against certain lawyers.³⁷

Various human rights groups in addition to Freedom Now, such as Amnesty International, the Paris Bar, Association for Human Rights in Central Asia, Human Rights Watch, the International Partnership for Human Rights, and the Norwegian Helsinki Committee have all called on the government of Tajikistan to stop interfering with the independence of lawyers to practice their profession.³⁸ Lawyers have faced significant persecution for their involvement in politically-sensitive cases. This interference comes in the form of punitive and arbitrary arrests, imprisonment (often long-term), intimidation, and death threats (and their families),³⁹ which come typically in retaliation for representing political opponents or expressing a willingness to take on political cases.⁴⁰ Many lawyers who have defended members of the political opposition have either been charged with national security-related offenses or have had to flee the country for fear of reprisal, and those who have been arrested and prosecuted have faced closed, unfair trials resulting in harsh prison sentences.⁴¹ For example, Yorov was charged with fraud relating to his alleged failure to provide satisfactory legal services; in 2017 (and in addition to prior convictions on allegedly unrelated matters), Yorov was convicted under Article 247 of the Criminal Code and sentenced to 12 years in prison.

These unprecedented risks make lawyers increasingly wary of taking on political cases or cases that involve complaints against agents of the state.⁴² For example, in addition to the arrest and conviction of Yorov after he took on the representation of detained IRPT members, Yorov’s own lawyer, Nuriddin Makhamov, was also arrested and eventually tried and convicted (to 21 years in prison) alongside Yorov.⁴³ Yorov’s brother Jamshed, also an attorney, was forced to flee the country. Fayzinisso Vohidova, a lawyer known for human rights work, reported receiving death threats against her and her family for representing politically-sensitive clients;⁴⁴ agents of the state allegedly harassed Vohidova through surveillance, threats, and intimidation.⁴⁵ In May 2017, shortly after she had posted on Facebook an appeal to President Rahmon to halt his persecution of Yorov, Vohidova was interrogated by authorities who then prevented her from leaving the country. The travel ban was eventually lifted, but sadly Vohidova passed away in January 2019. She did not live to see her law license reinstated. Shukhrat Kudratov, the lawyer who attempted to defend Saidov from the spurious charges against him, was also arrested, tried and convicted to a lengthy sentence. Other human rights lawyers who have been

³⁶ *List of issues*, ¶ 16, *supra* note 1.

³⁷ *Addendum to the list of issues*, ¶ 226-227, *supra* note 2.

³⁸ *Tajikistan: Human Rights Lawyer Detained*, Human Rights Watch (Oct. 7, 2015), available at <https://www.hrw.org/news/2015/10/07/tajikistan-human-rights-lawyer-detained>.

³⁹ *Time to Get Tough on Tajikistan’s Human Rights Crisis*, EurasiaNet.org (May 16, 2016), available at <http://www.eurasianet.org/node/78786; #Tajikistan>, Frontline Defenders, available at <https://www.frontlinedefenders.org/en/location/tajikistan>.

⁴⁰ *Tajikistan: Long Prison Terms for Rights Lawyers*, Human Rights Watch (Oct. 6, 2016), available at <https://www.hrw.org/news/2016/10/06/tajikistan-long-prison-terms-rights-lawyers>.

⁴¹ *In the Line of Duty: Harassment, Prosecution and Imprisonment of Lawyers in Tajikistan*, Amnesty International (May 23, 2017), available at <https://www.amnesty.org/en/documents/eur60/6266/2017/en/>, pg. 4.

⁴² *Id.*; *Rights Watchdog Condemns Tajikistan’s Crackdown on Lawyers*, Radio Free Europe/Radio Liberty (May 24, 2017), available at <https://www.rferl.org/a/tajikistan-amnesty-lawyers-crackdown-yorov-mahkamov-kudratov/28505124.html>.

⁴³ *Tajikistan: Long Prison Terms for Rights Lawyers*, *supra* note 62.

⁴⁴ *Tajikistan: Free Human Rights Lawyers*, Human Rights Watch (May 4, 2016), available at <https://www.hrw.org/news/2016/05/04/tajikistan-free-human-rights-lawyers>.

⁴⁵ *Id.*

subjected to harassment, arrest, and/or lengthy detention include Fakhriddin Zokirov, Dilbar Dodojonova, and Firuz and Daler Tabarov—sons of Iskhok Tabarov, another prominent defense lawyer.

Furthermore, the government has taken steps to curtail the independence of the bar.⁴⁶ In November 2015, the passage of the Advokatura and Advocate's Activities Act required all lawyers to renew their law licenses with the Justice Ministry, instead of the independent bar association, and to retake the bar examination every five years.⁴⁷ The bar exam now includes questions on a broad range of subjects unrelated to law, such as history, culture, and politics.⁴⁸ Tajik lawyers are concerned that the retesting procedure is a way for the government to eliminate those who take on cases against the government's interest through a means that appears to safeguard rule of law.⁴⁹ In the wake of these changes, the number of licensed lawyers in the country has fallen from more than 1,200 in 2015 to just 600 in 2017.⁵⁰ As a result of these restrictions, there is approximately only one lawyer per 14,500 people in Tajikistan.⁵¹

Recommendations to Tajikistan

1. *Ensure that all detainees have immediate and confidential access to legal counsel of their own choosing, that trials are open to the public, that confessions are not obtained through the use of torture or other undue pressure, that the presumption of innocence is respected and that all other procedural rights are fully respected.*
2. *Thoroughly investigate all cases of fair trial abuse against political opposition members, lawyers, journalists, and all others detained for exercising their fundamental human rights. Ensure that perpetrators of such abuses are held accountable and that victims of such abuses are appropriately rehabilitated and compensated.*
3. *Ensure that civilians are not tried by military courts.*
4. *Ensure that arrests and searches are properly authorized and that mechanisms are in place by which an individual may report improper arrests or searches.*
5. *Revise the Advokatura and Advocate's Activities Act (2015) to comply with international standards.*

V. Freedom of expression and peaceful assembly (Articles 19 and 21 of the ICCPR)

The List of Issues requested Tajikistan respond to consistent reports of restrictions on freedom of expression in law and practice.⁵² Tajikistan denied any such restrictions exist.⁵³

The Tajik Constitution recognizes citizens' freedom of expression and prohibits state censorship.⁵⁴ Domestic legislation, including the Law on Television and Broadcasting (1996), the Law on Access to Information (2008), and the Law on Periodical Print and Other Mass Media (2013), prohibit state

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Tajikistani Lawyers Harassed, Intimidated, and Imprisoned*, Amnesty International (May 24, 2017), available at <https://www.amnesty.org/en/latest/news/2017/05/tajikistani-lawyers-harassed-intimidated-and-imprisoned/>.

⁵¹ *In the Line of duty: Harassment, Prosecution and Imprisonment of Lawyers in Tajikistan*, Amnesty International (May 23, 2017) available at <https://www.amnesty.org/en/documents/eur60/6266/2017/en/>, pg. 11.

⁵² *List of issues*, ¶ 21, *supra* note 1.

⁵³ *Addendum to the list of issues*, ¶ 266-275, *supra* note 2.

⁵⁴ *Constitution of the Republic of Tajikistan*, Article 30, available at <http://www.wipo.int/edocs/lexdocs/laws/en/tj/tj001en.pdf>.

interference, censorship, and persecution for criticism. However, Tajikistan's Criminal Code criminalizes insulting the President and state officials.⁵⁵ In November 2016, President Rahmon signed a law that made insulting or defaming the president a crime punishable by up to five years in prison. National legislation concerning terrorism and extremism has further curtailed the exercise of freedom of expression in Tajikistan.⁵⁶

The Licensing Committee, a subgroup within the State Committee on Television and Radio that issues production licenses to media companies, has used its power against independent media outlets critical of the government by withholding or revoking licenses to silence dissent.⁵⁷ Four state-owned television and radio stations are the only media outlets broadcasting nationwide, effectively dominating the broadcast media.⁵⁸

This government control over the media has effectively silenced political opposition. For example, during the 2015 parliamentary elections, authorities barred journalists from polling stations.⁵⁹ Opposition politicians had limited or no access to state-run television.⁶⁰ The government gave opposition parties minimal broadcast time to express their political views,⁶¹ while the president's party had numerous opportunities to broadcast its message.⁶² Following the Supreme Court's proclamation of the IRPT as a terrorist organization in September 2015, distribution of any newspapers, videos, audio recordings, literature and leaflets connected to the IRPT was prohibited. The party's website has been blocked since that time.⁶³ Political speech is particularly sensitive and those, like the IRPT members, who espouse political ideas in opposition to the government are frequently targeted for harassment and arrest.

⁵⁵ *Criminal Code of the Republic of Tajikistan*, Articles 137 and 330, available at <http://www.legislationline.org/download/action/download/id/1707/file/207b8150765af2c85ad6f5bb8a44.htm/preview> (unofficial) (hereinafter, Tajik Criminal Code)

⁵⁶ *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression on his Mission to Tajikistan*, Human Rights Council, 34th Sess., June 6-June 23, U.N. Doc. A/HRC/35/22/Add.2 (June 9, 2017), ¶ 16 available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/Pages/ListReports.aspx>, (hereinafter *2017 Special Rapporteur Report*).

⁵⁷ *Id.*, ¶ 25

⁵⁸ *Although Tajikistan's Parliamentary Elections Provided Some Political Alternatives, Campaign Space was Restricted and a Fair Count Could Not be Guaranteed, International Observers Say*, Organization for Security and Cooperation in Europe (March 2, 2015), available at <http://www.osce.org/odihr/elections/tajikistan/143311>.

⁵⁹ *Tajikistan: Freedom of the Press 2016*, Freedom House, available at <https://freedomhouse.org/report/freedom-press/2016/tajikistan>.

⁶⁰ The parliamentary election laws grant each nationwide list 40 minutes and each single-mandate candidate 20 minutes of free airtime on state-owned television or radio. However, single-mandate candidates could not use regional or local state media to air their campaign broadcasts. The Commission for Elections and Referenda (CCER) decreed that all the free airtime for nationwide lists would be shown on *TV Shabakai 1* in slots well in advance of election day (the slots were allocated between January 28, 2015 and February 6, 2015). See *Tajikistan, Parliamentary Elections, 1 March 2015: Final Report*, Organization for Security and Cooperation in Europe (May 15, 2015), pg. 13.

⁶¹ The IRPT used only 18 minutes and requested to use the remainder to broadcast one-minute clips; an approach originally approved by the CCER. The State Committee on Television and Radio prevented the broadcasting of the IRPT's clips on the grounds that they had not been produced by a licensed audio-visual production company and that their content did not comply with the rules on conducting a campaign. Consequently, the IRPT was unable to campaign using its preferred method and instead had to use its remaining time in a single 20-minute slot on February 24. Outside the free airtime, the state broadcast media did not cover parties' political platforms or activities and no media organized debates among contestants. *Id.* at pgs. 17-18.

⁶² There was a clear lack of balance in the very limited amount of political coverage in broadcast media. Less than 10 percent of current affairs programming covered political issues. The three state-owned television stations allocated 48, 19, and 30 percent of their news and current affairs programming to President Rahmon, the Government, and the CCER, respectively. *Id.* at pg. 18.

⁶³ *2017 Special Rapporteur Report*, ¶ 41.

The government has firm control over social media. During 2015, the government restricted access to websites such as Facebook and YouTube, and restricted text messaging.⁶⁴ A 2014 amendment to the Tajik law on “emergency situations” gave the government the power to limit use of recording equipment and mobile and internet networks. That amendment also permitted the government to censor independent media during emergencies.⁶⁵ Legislation adopted in November 2015 increased restrictions by allowing the State Committee for National Security to block access to internet and cell phone services during anti-terrorism operations, extending throughout the entire country if necessary.⁶⁶ In November 2016, Presidential Decree 765 was issued, which created a “Single Communications Switching Centre” that allows the government complete control over all domestic communications, without legal safeguards.⁶⁷ The Switching Center requires that all internet and mobile communications be run through a single, state-owned telecom provider.⁶⁸

Journalists are commonly subjected to pressure such as insults and humiliation on social media, and those who speak out are harassed and threatened by state agents. In December 2017, authorities arrested Khayrullo Mirsaidov, a well-known independent journalist and head of a local comedy troupe in Tajikistan’s northern Sughd region. The regional Prosecutor General’s office arrested him after he voluntarily appeared at the Prosecutor General’s office for questioning. The charges were brought after Mirsaidov appealed to Tajikistan’s president to crack down on corruption by local authorities. On July 11, 2018, Mirsaidov was sentenced to 12 years in prison for embezzlement, forging documents, and providing false testimony.⁶⁹ Mirsaidov was released in August 2018 and traveled to Georgia in October 2018 for medical treatment. However, the government convicted him of violating the terms of his release and sentenced him *in absentia* to an additional eight month sentence.⁷⁰ He has since settled in a third country.

Recommendations to Tajikistan

1. *Revise the Law on Television and Broadcasting (1996), the Law on Access to Information (2008), the Law on Periodical Print and Other Mass Media (2013), and the Criminal Code to comply with international standards.*
2. *Drop the charges against Mirsaidov and end judicial harassment of all journalists.*

⁶⁴ *Spotlight: Fundamental Rights in Central Asia*, International Partnership for Human Rights (Dec. 2015), pg. 3, available at <http://iphronline.org/wp-content/uploads/2015/12/Tajikistan-fundamental-rights-overview-December-2015.pdf>.

⁶⁵ *Tajikistan: Freedom of the Press 2016*, *supra* note 81.

⁶⁶ *Spotlight: Fundamental Rights in Central Asia*, *supra* note 86, pg. 4.

⁶⁷ *RSF Reinforces Alliance with Partner in Tajikistan*, Reporters Without Borders (Nov. 28, 2016), available at <https://rsf.org/en/news/rsf-reinforces-alliance-partner-tajikistan>.

⁶⁸ *Id.*

⁶⁹ *Tajikistan Issues 12-Year Sentence to Whistleblower Journalist*, The Diplomat (July 11, 2018), available at <https://thediplomat.com/2018/07/tajikistan-issues-12-year-sentence-to-whistleblower-journalist/>.

⁷⁰ *Previously Jailed Tajik Journalist Ordered Back to Prison*, The Diplomat (Jan. 14, 2019), available at <https://thediplomat.com/2019/01/previously-jailed-tajik-journalist-ordered-back-to-prison/>.

VI. Freedom of association and participation in public affairs (Articles 22 and 25 of the ICCPR)

a. Violations of the ICCPR inside Tajikistan

The Committee requested Tajikistan's comment on "reports of politically motivated harassment of opposition, including: (a) the designation of opposition groups as 'extremist' or 'terrorist'; (b) the long prison sentences for high-ranking members of the IRPT following allegedly unfair and secret trials."⁷¹ Tajikistan in turn, reiterated its claims against the IRPT, namely that it had been the willing and active participant of failed coup.⁷²

The government has severely curtailed the exercise of freedoms of association and participation in public affairs, particularly following the parliamentary election of 2015. The People's Democratic Party ("PDP")-controlled government dominates the political process. As discussed above, it uses state-owned media to control political messaging and demonize its critics. The party also implements various other restrictions on voting or political participation—up to and including harassing or imprisoning opposition party members. In May 2016, voters passed a constitutional amendment by 96% that banned the formation of political parties based on religion.⁷³

The IRPT endured a long campaign of government harassment, culminating in the Supreme Court banning the group as a terrorist organization in September 2015 and arresting, convicting, and sentencing the entirety of its leadership in the country to lengthy sentences for their alleged involvement in a failed coup. After Group 24, another peaceful political group, called for democratic reform, it too was declared "extremist" and persons accused of association with the group became subject to investigation and detention.⁷⁴ Safarali Hasanov, a member of Group 24, was sentenced in May 2016 to five years in prison on charges of "organization of activity of an extremist group" for participating in a meeting calling on Tajik labor migrants to demonstrate against the government.⁷⁵ The government also arrested and convicted Zayd Saidov, the former Minister of Industry, on spurious charges just months after he created the New Tajikistan Party, a political party in opposition to the PDP; Saidov is now serving a 29-year prison sentence. On July 16, 2018, the Committee issued an opinion finding that Saidov had been arbitrarily detained.⁷⁶ In May 2019, the maximum security prison in Vahdat where Saidov is being held experienced a deadly prison riot resulting in the deaths of 29 inmates. Saidov was allegedly targeted by members of the Islamic State, but was protected from harm by fellow prisoners. Although his life is still in danger he remains in the prison.

The result of this repression is a limited number of independent political parties, and almost no opposition. In 2015, there were eight registered political parties, but only three were independent of the

⁷¹ *List of issues*, ¶ 25, *supra* note 1.

⁷² *Addendum to the list of issues*, ¶ 293-309, *supra* note 2.

⁷³ *Tajikistan voters approve changes to extend president's rule, ban religious parties*, Deutsche Welle (May 23, 2016), available at <https://www.dw.com/en/tajikistan-voters-approve-changes-to-extend-presidents-rule-ban-religious-parties/a-19276648>.

⁷⁴ *2017 Special Rapporteur Report*, ¶ 48.

⁷⁵ *One More Member of Group 24 Jailed in Tajikistan*, Asia-Plus (May 5, 2016), available at <https://news.tj/en/news/one-more-member-group-24-jailed-tajikistan>.

⁷⁶ *Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning Communication No. 2680/2015*, UN Human Rights Committee, U.N. Doc., CCPR/C/122/2680/2015 (July 16, 2018) (hereinafter *Views concerning Communication No. 2680/2015*).

government.⁷⁷ The ban on the IRPT in September 2015 left only two.⁷⁸ Although the 1997 peace agreement which ended the civil war guaranteed 30 percent of senior government posts to opposition parties, this guarantee has never been honored.⁷⁹

The government has also targeted NGOs that focus on human rights. In 2015, state agencies initiated investigations into certain key NGOs, demanding that they turn over financial documents and fining them for undefined tax regulations.⁸⁰ For example, the Bureau on Human Rights and Rule of Law was fined approximately \$6,000 for violating undefined tax regulations after receiving an official request to release all financial documents between 2010 and 2015 to Tajik authorities.⁸¹ In May 2017, the president signed into law the Fighting Corruption Act. The law requires political parties, local public associations, and international organizations to submit corruption risk assessments to the government. It also empowers the government to conduct regular inspections of the financial activities of these organizations, potentially opening them up to prosecution or closure.⁸²

As discussed more in section IV above, the government also targets defense attorneys for their association with their politically-disfavored clients.

b. Violations of the ICCPR abroad

The Committee asked Tajikistan to comment on “the harassment of exiled opposition activists, including through the use of Interpol red notices to seek their extradition, as well as reprisals against relatives of political dissidents abroad.”⁸³ Tajikistan ignored this request and gave no response.

The government has sought the extradition of critics living abroad, using the Interpol system to issue red notices against members of opposition groups. On February 16, 2018, with the assistance of Turkish officials, Tajik officials took custody of IRPT member and businessman Namunjon Sharipov in Istanbul. He was held by Turkish authorities in an Istanbul detention facility for 11 days before he was forcibly removed to Tajikistan where he still awaits trial.

In instances where extradition has not been successful, the government has resorted to kidnapping. On February 13, 2019, Sharofiddin Gadoev, former deputy leader of Group 24, travelled from Amsterdam to Moscow to brief officials from Russia’s Security Council on political developments in Tajikistan. The following afternoon, Russian security service officers picked Gadoev up at his hotel to escort him to the meeting. During the drive, Gadoev was transferred to a different car and driven to Moscow’s Domodedovo airport. He was beaten by security service officers while en route to the airport.⁸⁴ Gadoev was handed over to Tajik security service officers, who beat him, put a sack on his head, and placed him on a flight to Dushanbe. He was brought to the Interior Ministry the next day where he was offered three

⁷⁷ *Tajikistan 2015 Human Rights Report*, U.S. Department of State, available at <https://www.state.gov/documents/organization/253189.pdf>, pg. 15 (hereinafter *Tajikistan 2015 Human Rights Report*).

⁷⁸ *Id.*

⁷⁹ *Id.*, at pg. 12.

⁸⁰ *Tajikistan 2015 Human Rights Report*, pg. 12.

⁸¹ *Id.*

⁸² *In Tajikistan, international organizations and NGOs will check for corruption*, Asia Plus (June 14, 2017), available at <https://news.tj/ru/news/tajikistan/laworder/20170614/antikorrupsiya-nadelena-pravom-iskat-korrupsionerov-v-mezhdunarodnih-organizatsiyah-i-npo>.

⁸³ *List of issues*, ¶ 25, *supra* note 1.

⁸⁴ *Id.*

options: execution, a prison sentence of 25 years to life, or he could cooperate with the authorities and allege that the Muhiddin Kabiri was financed by Iran and Western human rights groups.⁸⁵ On February 20, the government announced he was charged with possession of contraband and forgery.⁸⁶ Gadoev was released from custody and allowed to return to the Netherlands on March 2.⁸⁷

Even short of extradition or kidnapping, Tajikistan has continued to harass dissidents and their relatives beyond its borders. For example, Jamshed and Khosiyat Yorov, siblings of imprisoned human rights attorney Buzurgmehr Yorov, reported harassment after they fled to Poland. Special Services told Jamshed's wife that they had operatives in Poland and that they knew the exact address of Jamshed at the refugee camp. In March 2017, Jamshed noticed a member of the Police Unit for Combating Organized Crime, who he recognized from a prior raid on his office in Dushanbe, watching him in the refugee camp. When Jamshed asked about the presence of these members the Police Unit for Combating Organized Crime in the camp, he was told that these were refugees from Uzbekistan. In response, Jamshed made a report to Poland's Office of Refugees, explaining that he believed there to be Tajik and Russian agents in the refugee camp who posed a danger to him.

Recommendations to Tajikistan

1. *Revise the Fighting Corruption Act (2017) and the Constitution to comply with international standards in relation to freedom of association.*
2. *End the abuse of Interpol red notices and harassment of Tajik citizens living abroad.*

⁸⁵ *Tajikistan: Opposition activist reveals details of state-ordered kidnapping*, EurasiaNet (March 6, 2019), available at <https://eurasianet.org/tajikistan-opposition-activist-reveals-details-of-state-ordered-kidnapping>.

⁸⁶ *Tajikistan: Activist Forcibly Returned from Russia*, Norwegian Helsinki Committee (Feb. 24, 2019), available at <https://www.nhc.no/en/tajikistan-activist-forcibly-returned-from-russia/>.

⁸⁷ *Tajikistan: Opposition activist reveals details of state-ordered kidnapping*, EurasiaNet (March 6, 2019), available at <https://eurasianet.org/tajikistan-opposition-activist-reveals-details-of-state-ordered-kidnapping>.