



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Concluding observations on the third periodic report of Tajikistan\*\*

1. The Committee considered the third periodic report of Tajikistan (CCPR/C/TJK/3) at its 3611th and 3612th meetings (see CCPR/C/SR.3611 and 3612), held on 2 and 3 July 2019. At its 3635th meeting, held on 18 July 2019, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the timely submission of the third periodic report of Tajikistan and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/TJK/Q/3/Add.1) to the list of issues (CCPR/C/TJK/Q/3), which were supplemented by the oral responses provided by the delegation.

#### B. Positive aspects

3. The Committee welcomes the following legislative and policy measures taken by the State party:

(a) Amendments of 27 November 2014 to article 479 of the Code of Criminal Procedure prohibiting the extradition of a person if there is information to suggest that he or she may be tortured;

(b) The framework for the provision of free legal assistance, approved on 2 July 2015, and the ongoing implementation of pilot projects and different models for providing free primary and secondary legal assistance to low-income and vulnerable sections of the population;

(c) The Constitutional Law on Nationality of 8 August 2015;

(d) Amendments of 30 March 2016 to the Code of Criminal Procedure and the Act on Procedures and Conditions for the Custody of Suspects, Accused Persons and Defendants.

4. The Committee welcomes the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women by the State party on 22 July 2014.

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\* Reissued for technical reasons on 9 September 2019.

\*\* Adopted by the Committee at its 126th session (1–26 July 2019).



## C. Principal matters of concern and recommendations

### The Covenant in the domestic legal order

5. While taking note of the direct applicability of the Covenant to the domestic legal order and the guidelines set out by the Supreme Court on 18 November 2013 on the application by courts of ratified international legal instruments, the Committee regrets that the State party was not able to provide any specific examples of application of the Covenant in court judgments, as requested in its previous concluding observations (CCPR/C/TJK/CO/2, para. 4) (art. 2).

**6. The State party should take appropriate measures to raise awareness of the Covenant and its applicability in domestic law among judges, prosecutors and lawyers, including by providing specific and adequate training on the Covenant and by making the Covenant and the work of the Committee part of legal education.**

### Implementation of the Covenant and its Optional Protocol

7. The Committee remains concerned (see CCPR/C/TJK/CO/2, para. 4) about the State party's continuing failure to implement the Views adopted by the Committee under the Optional Protocol and the lack of effective mechanisms and procedures for authors of communications to seek, in law and in practice, the full implementation of the Views (art. 2).

**8. The Committee recalls its general comment No. 33 (2008) on the obligations of States parties under the Optional Protocol. The State party should take all the measures necessary, including legislative measures, to ensure that mechanisms and appropriate procedures are in place to give full effect to the Views adopted by the Committee so as to guarantee the right of victims to an effective remedy when there has been a violation of the Covenant, in accordance with article 2 (3) of the Covenant. It should promptly and fully implement all pending Views issued with respect to it.**

### National human rights institution

9. While noting that the mandate and monitoring functions of the Commissioner for Human Rights (Ombudsman) were expanded in 2014 and 2016, the Committee remains concerned (see CCPR/C/TJK/CO/2, para. 5) that the Office of the Ombudsman still does not fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (art. 2).

**10. The State party should step up its efforts to achieve the full compliance by the Commissioner for Human Rights with the Paris Principles, including by strengthening its independence and by providing the institution with adequate financial and human resources to enable it to discharge its expanded mandate independently and effectively.**

### Corruption

11. While noting the measures taken to combat corruption, including the adoption of the procedure to analyse corruption risks in organizations (government decision No. 465 of 28 October 2016), the stiffening of sanctions for bribe-taking in 2018 and the plan of action to implement the recommendations made by the Organization for Economic Cooperation and Development (OECD) in the framework of the 2018–2019 Istanbul Anti-corruption Action Plan, the Committee is concerned about reports that corruption, including bribe-seeking by public officials, is widespread. It is concerned that the full scope of the definition of corruption in accordance with international standards has yet to be reflected in the national criminal legislation, inter alia as regards the inclusion of proposing, demanding and accepting the promise or offer of unlawful benefits as separate offences, non-material bribes or benefits and the criminalization of illicit enrichment or trading in influence, and notes in this regard that the working group established in 2016 to revise the Criminal Code would also consider corruption-related offences. The Committee is also concerned that the main specialized body in charge of detecting and investigating corruption offences, namely

the Agency for State Financial Control and Combating Corruption, is not sufficiently independent from the executive branch (arts. 2 and 25).

**12. The State should take all the measures necessary to combat corruption effectively, including by revising the Criminal Code to give effect to the OECD recommendations regarding the definition and criminalization of all elements of corruption, providing relevant training to law enforcement agencies, prosecutors and judges on detecting, investigating and prosecuting corruption, and strengthening the operational and structural independence and specialization of law enforcement agencies and prosecutors dealing with corruption cases to enable the investigation of complex and high-level corruption cases.**

#### **Anti-discrimination framework**

13. While noting that article 17 of the Constitution and other legislative acts guarantee equality before the law and the rights of every person without discrimination on several grounds, the Committee is concerned that the existing legal framework does not afford comprehensive protection against discrimination on all the grounds prohibited under the Covenant and regrets the lack of information, inter alia on the prohibition of discrimination in the private sphere and on effective remedies for all forms of discrimination. The Committee notes that a working group was set up in 2018 to prepare a bill on the prohibition of discrimination and regrets that no further details have been provided regarding the bill and the timeline for its adoption (arts. 2 and 26).

**14. The State party should take all the measures necessary, including by adopting a comprehensive anti-discrimination law, to ensuring that its legal framework provides adequate and effective substantive and procedural protection against all forms of direct, indirect and multiple discrimination, including in the private sphere, on all the prohibited grounds under the Covenant, including colour, opinion, birth, sexual orientation, gender identity and other status, as well as access to effective and appropriate remedies for victims of discrimination.**

#### **Discrimination and violence on grounds of sexual orientation and gender identity**

15. The Committee is concerned about reports of deep-rooted discrimination against lesbian, gay, bisexual and transgender individuals, including homophobic and transphobic rhetoric by public officials, violence and harassment, including arbitrary arrest, detention and extortion by law enforcement officials. The Committee is concerned about reports, although they are denied by the State party, that individuals suspected of being lesbian, gay, bisexual or transgender were identified following special operations entitled “Morality” and “Purge” and placed on a registry, which exacerbates their social stigmatization. The Committee is also concerned at the statement made by the Commissioner for Human Rights in January 2019 that international recommendations regarding the protection of lesbian, gay, bisexual and transgender rights would not be followed because they would be contrary to the “moral and ethical norms of relationships among people in the country” (arts. 2, 7, 9, 17 and 26).

**16. The State party should: (a) provide effective protection against all forms of discrimination and violence on the basis of sexual orientation and gender identity, both in law and in practice, and ensure that no such discrimination or violence is tolerated and that such conduct is properly addressed and remedied; (b) combat homophobic and transphobic discourse, including by providing appropriate training to law enforcement and other officials on combating discriminatory attitudes towards lesbian, gay, bisexual and transgender individuals and by conducting similar awareness-raising activities aimed at the general public; and (c) investigate law enforcement practices to ensure that lesbian, gay, bisexual and transgender individuals are not registered and end any such practices that unduly interfere with their rights, including to privacy and to liberty and security.**

**Equality between men and women**

17. While welcoming the measures taken to promote gender equality, including the national strategy on promoting the role of women for the period 2011–2020 and the plan of action for the period 2015–2020, the Committee is concerned that: (a) women continue to be underrepresented in political and public life, including in the parliament, in executive bodies, including local executive and local self-governing bodies, and in the judiciary; (b) despite its prohibition by law, polygamy reportedly persists in practice, including due to large numbers of religious marriages (*nikokh*) (arts. 2, 3, 25 and 26).

**18. The State party should strengthen the measures aimed at ensuring gender equality, including by: (a) stepping up efforts to achieve within specific time frames an equitable representation of women in political and public life, including in the parliament, in executive bodies at national and local levels and in the judiciary, particularly in decision-making positions, if necessary through appropriate temporary special measures, to give effect to the provisions of the Covenant; and (b) enforcing effectively the legal prohibition of polygamy and conducting targeted community awareness-raising campaigns.**

**Violence against women, including domestic violence**

19. While welcoming the various measures taken to address violence against women, including domestic violence, such as the State programme on the prevention of domestic violence for the period 2014–2023, the Committee remains concerned (see CCPR/C/TJK/CO/2, para. 7) that domestic violence remains prevalent and is largely underreported, with 80 per cent of women dealing with domestic violence within the family and only 6 per cent approaching law enforcement bodies or seeking the assistance of a lawyer, according to the results of the medical-demographic study conducted by the State party in 2017. The Committee is also concerned about the low number of criminal prosecutions compared with the number of reported cases of domestic violence (arts. 2, 3, 7 and 26).

**20. The State party should redouble its efforts to prevent and combat all forms of violence against women effectively, including by:**

**(a) Strengthening preventive measures, including by instituting and conducting awareness-raising and education campaigns about the unacceptability and adverse impact of violence against women and by systematically informing women of their rights and the avenues available for obtaining protection, assistance and redress;**

**(b) Establishing an effective mechanism to encourage the reporting of cases of violence against women;**

**(c) Ensuring that law enforcement officials, the judiciary, prosecutors and other relevant stakeholders receive appropriate training on gender-sensitive detection, handling and investigation of cases of violence against women;**

**(d) Ensuring that cases of violence against women are promptly and thoroughly investigated, that perpetrators are brought to justice and that victims have access to effective remedies and means of protection, including sufficient, safe and adequately funded shelters/crisis centres and suitable support services throughout the country.**

**States of emergency**

21. The Committee is concerned that existing regulations governing states of emergency, including the State of Emergency Act, do not appear to comply with the procedural and substantive requirements of article 4 of the Covenant, and that the State party has reportedly been using emergency powers, including as a counter-terrorism measure on the basis of the Electronic Communications Act and the Counter-Terrorism Act, such as blocking access to the Internet and mobile communication services but without a court order and without declaring an official state of emergency (art. 4).

22. **The State party should bring its regulations and practices governing states of emergency into full compliance with the requirements of article 4 of the Covenant, as interpreted in the Committee's general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency, particularly by ensuring that any derogations from Covenant rights are strictly limited to those required by the exigencies of the situation, and that no derogations from the non-derogable provisions of the Covenant are permissible.**

#### **Combating terrorism and extremism**

23. The Committee is concerned about: (a) the broad and vague definitions of terrorism (Counter-Terrorism Act of 1999), extremism (Anti-Extremism Act of 2003) and public justification of terrorist and extremist activity (amendments to the Criminal Code adopted on 14 November 2016) that may lead in practice to arbitrariness and abuse; (b) the reported misuse of such legislation to limit and repress the freedom of expression of political dissidents and religious groups; and (c) the wide powers granted to the security services to block access to the Internet and mobile communications during a state of emergency, including in connection with counter-terrorism operations, without a court order (pursuant to the Counter-Terrorism Act as amended in 2015 and to article 33 of the Electronic Communications Act). The Committee notes that amendments to the Criminal Code and revised versions of the Counter-Terrorism Act and the Anti-Extremism Act have been prepared (arts. 2, 4, 14, 18 and 19).

24. **The State party should bring its current counter-terrorism and counter-extremism regulations and practices into full compliance with the Covenant, including with the requirements of article 4. Inter alia, it should clarify and narrow the broad definitions of terrorism, the public justification of terrorist and extremist activity, and extremism (including by adding a requirement of violence or advocacy of hatred), and ensure that they comply with the principles of legal certainty and predictability and with relevant international standards, and that any limitations of human rights for national security purposes ensuing from the application of such regulations serve legitimate aims, are necessary and proportionate and are subject to appropriate safeguards. The State party should also ensure that any newly adopted counter-terrorism and counter-extremism regulations fully comply with the above principles.**

#### **Accountability for human rights violations in connection with the security operation in Khorugh**

25. The Committee regrets that the State party provided no information on the outcome of investigations (see CCPR/C/TJK/CO/2, para. 10) into the killing and injuring of civilians during the security operation in Khorugh city in July 2012, nor on any compensation awarded to victims or their families (arts. 2, 6 and 7).

26. **The Committee reiterates its previous recommendation (CCPR/C/TJK/CO/2, para. 10). The State party should take expeditious measures to ensure that those responsible for the killing and wounding of civilians during the security operation in Khorugh city are identified, prosecuted and convicted and that victims and their families are provided with full reparation, including adequate compensation.**

#### **Death penalty**

27. While welcoming the continued moratorium on executions since 2004 and noting that the social and legal aspects of abolishing the death penalty have been under study by a dedicated working group since 2010, the Committee regrets the lack of progress made towards the abolition of the death penalty de jure and the accession to, or ratification of, the second Optional Protocol to the Covenant, aiming at the abolition of the death penalty (art. 6).

28. **The State party should maintain and ensure compliance with the moratorium on executions and take concrete steps, within a clear time frame, towards the abolition of the death penalty and the accession to, or ratification of, the second Optional Protocol to the Covenant.**

**Deaths in custody**

29. The Committee remains concerned (see CCPR/C/TJK/CO/2, para. 9) about reports of deaths in custody, reportedly caused by torture and ill-treatment and high rates of tuberculosis and HIV/AIDS among prisoners, and regrets the lack of precise information on the number of deaths in custody in all places of deprivation of liberty, as opposed to penal institutions only, and on the specific causes of death. It is concerned about the lack of effective investigation and prosecution of such cases, including in the cases of Kurbon Mannonov, Nozimdshon Tashirpov, and Ismonboy Boboev. The Committee is equally concerned about the lack of information on any prompt, independent and impartial investigations into the deaths of 21 and at least 29 prisoners during the prison riots in Khujand (November 2018) and Vahdat town (May 2019) respectively (arts. 2, 6, 7 and 10).

**30. The State party should abide by its obligation to respect and protect the right to life of individuals in custody by, inter alia, taking effective measures to address the underlying causes of deaths in custody, providing adequate medical care and ensuring prompt, impartial, independent and effective investigations into the circumstances surrounding deaths in custody, keeping victims' families properly informed at all stages of the investigation, bringing responsible persons to justice, where appropriate, and providing victims' families with reparation. Specifically with regard to the loss of lives during the prison riots in Khujand and in Vahdat town, the State party should carry out an investigation satisfying the standards referred to above into all cases of death, prosecuting those responsible for any excessive or disproportionate use of force during the riots, providing reparation to victims' families and returning the remains of the victims to their relatives for burial.**

**Torture and ill-treatment**

31. While noting the measures taken to combat torture, including legislative reforms such as the amendments to the Code of Criminal Procedure in 2016 and the increase in the penalty for torture, the Committee remains concerned about: (a) continued reports of torture or ill-treatment of persons deprived of their liberty, particularly for the purposes of extracting confessions, including against human rights defenders and political opponents, such as in the cases of members of the banned Islamic Renaissance Party Mahmadali Hayit and Rahmatullo Rajab, and of Zayd Saidov; (b) admission of evidence obtained under torture by domestic courts, despite such evidence being inadmissible in law; (c) the absence of an independent mechanism to investigate all allegations of torture or ill-treatment and the low number of investigations and prosecutions (arts. 2 and 7).

**32. The State party should take robust measures to eradicate torture and ill-treatment by inter alia:**

**(a) Providing adequate training on the prevention of torture and on the humane treatment of detainees to all law enforcement officials and security forces;**

**(b) Ensuring that the inadmissibility of confessions obtained under torture is effectively enforced in practice by law enforcement officers, prosecutors and judges;**

**(c) Ensuring that all allegations of torture and other ill-treatment are promptly and thoroughly investigated by an independent and impartial body, that perpetrators are prosecuted and, if convicted, are punished with sanctions commensurate with the severity of the crime and that victims and, where appropriate, their families, are provided with full reparation, including rehabilitation and adequate compensation.**

**Treatment of prisoners**

33. While noting the measures taken to improve conditions of detention, the Committee is concerned about: (a) overcrowding, the poor material conditions of detention, the high incidence of tuberculosis and HIV/AIDS among inmates and the lack of adequate medical care; (b) the reported use of three secret punishment cells in detention facilities in Dushanbe and Khujand to subject inmates who have violated prison rules to physical abuse and degrading or humiliating treatment; (c) the harsh conditions of detention imposed on

prisoners sentenced to life imprisonment through a special prison regime (see CAT/C/TJK/CO/3); and (d) the reported obstacles and limitations on access by the Monitoring Group under the Ombudsman to all places of deprivation of liberty, and the insufficient efforts to facilitate the monitoring of such places by the International Committee of the Red Cross (ICRC) (arts. 7 and 10).

**34. The State party should:**

(a) **Take effective measures to eliminate overcrowding in places of detention, including by increasing resort to non-custodial alternative measures to detention;**

(b) **Strengthen its efforts to improve the material conditions of detention and the provision of adequate and timely medical care, in accordance with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), and bring the special regime for prisoners sentenced to life imprisonment into compliance with those standards;**

(c) **Abolish the use of secret punishment facilities, including the three secret cells in detention facilities in Dushanbe and Khujand, and ensure that all prisoners are treated humanely in all circumstances;**

(d) **Ensure that the Monitoring Group enjoys unhindered access to all places of deprivation of liberty and is able to conduct private interviews with any person deprived of liberty, and facilitate the same access and ability to ICRC.**

**Freedom of movement**

35. The Committee is concerned at allegations of arbitrary travel bans imposed on family members, including young children, of opposition activists abroad in retaliation for their relatives' criticism of State officials and policies (arts. 12 and 19).

**36. The State party should ensure that any restrictions on travel abroad is justified under article 12 (3) of the Covenant, end the use of arbitrary travel bans against family members of opposition activists abroad and guarantee full respect for their freedom to leave the country.**

**Independence of the judiciary and the right to a fair trial**

37. While noting the measures taken to reform the judiciary, including the constitutional amendments of 22 May 2016, the Committee remains concerned (CCPR/C/TJK/CO/2, para. 18) that the judiciary is still not fully independent owing, inter alia, to the role of and influence exerted by the executive and legislative branches; the criteria for selection, appointment, reappointment and dismissal of judges; and the lack of security of tenure of judges. The Committee is also concerned about the insufficient independence of prosecutors, owing mainly to the procedure for their appointment and dismissal, and about the extensive powers vested in them. The Committee is concerned about allegations of unfair trials, including violations of equality of arms between the defence and the prosecution; a bias in favour of the prosecution, violation of the presumption of innocence and an extremely low acquittal rate (about 0.1 per cent in 2018), unfair trials, closed to the public, in the case of the leaders of the Islamic Renaissance Party, and closed trials in cases not involving national security charges (arts. 2 and 14).

**38. The State party should take all the measures necessary to safeguard, in law and in practice, the full independence of judges and prosecutors, including by:**

(a) **Ensuring that procedures for the selection, appointment, reappointment, suspension, removal of and disciplinary action against judges and prosecutors are in compliance with the Covenant and relevant international standards;**

(b) **Guaranteeing the security of tenure of judges, including by considering providing for the automatic extension of the contract of a judge for a new 10-year term if the judge has performed his duties conscientiously;**

(c) **Reducing the excessive powers of the Prosecutor's Office;**

(d) **Ensuring that defendants are in practice afforded all fair trial guarantees, regardless of their political affiliation or opinion, including equality of arms and presumption of innocence;**

(e) **Ensuring that any restrictions on the right to a public hearing are construed narrowly and are necessary, proportionate and justified in accordance with the Covenant.**

#### **Access to the legal profession and harassment of lawyers**

39. The Committee is concerned about the insufficient number of lawyers (a ratio of 1:13,000), reportedly attributed to the dramatic drop in their numbers following the implementation of the amendments of November 2015 to the Advokatura and Advocates' Activities Act that introduced additional qualification criteria for entry to the legal profession and the requirement that all lawyers pass the new qualification examinations. The Committee is also concerned at reports of the harassment and intimidation of lawyers who take up politically sensitive cases, including harassment of their families and the prosecution of such lawyers, often leading to conviction to lengthy prison terms, such as in the case of human rights lawyers Buzurgmekhr Yorov, Nuriddin Makhkamov, Shukhrat Kudratov, Jamshed Yorov and Muazzamakhon Kadirova (arts. 2, 9 and 14).

40. **Taking into account the Covenant and the 1990 Basic Principles on the Role of Lawyers, the State party should take the measures necessary to:**

(a) **Increase the number of practising lawyers to ensure effective access to justice and to independent legal assistance;**

(b) **Ensure that sufficient safeguards are in place, both in law and in practice, to guarantee the full independence and safety of lawyers and that they are able to carry out their legitimate duties without any harassment, undue interference or fear of arbitrary criminal prosecution and conviction or of other retaliatory measures.**

#### **Surveillance and interception of private communications**

41. The Committee is concerned that the amendments to the Operative and Search Activity Act, adopted in July 2017, and presidential decree No. 765 of November 2016, establishing a single communications switching centre, do not afford sufficient safeguards against arbitrary interference with the privacy of individuals, owing, inter alia, to the wide powers granted to security and law enforcement agencies to monitor the entire Internet traffic, to access all users' information and to intercept communications and retrieve data without a court order. It is concerned at reports that individuals are subject to surveillance and are fined, punished and even detained or imprisoned for visiting "undesirable websites" or posting "inappropriate comments" online – none of which are defined under the above-mentioned regulations (arts. 17 and 19).

42. **The State party should ensure that: (a) all types of surveillance activities and interference with privacy, including online surveillance, interception of communications and communications data (metadata) and retrieval of data, are governed by appropriate legislation that is in full conformity with the Covenant, in particular articles 17 and 19, including with the principles of legality, proportionality and necessity, and that State practice conforms thereto; (b) surveillance and interception is conducted subject to judicial authorization and to effective and independent oversight mechanisms; and (c) the persons affected have proper access to effective remedies in cases of abuse.**

#### **Freedom of conscience and religious belief**

43. The Committee remains concerned (see CCPR/C/TJK/CO/2, para. 20) that interference by the State in religious affairs, worship and freedom of religion and the ensuing restrictions, such as those set out below, are incompatible with the Covenant: (a) interference with the appointment of imams and the content of their sermons; (b) control over books and other religious materials; (c) the requirement of State permission for

receiving religious education abroad; (d) the prohibition against entering a mosque for those under 18 years of age; (e) the regulations regarding the registration of religious organizations; (f) the regulations on wearing clothes during traditional or religious celebrations (2017 amendments to the Act on Regulating Traditions, Celebrations and Rituals and the guidelines issued by the Committee for Religious Affairs in September 2017) and the prohibition of certain attire in practice, such as the hijab; (g) restrictions imposed on Christian religious minorities, including Jehovah's Witnesses (art. 18).

**44. The State party should guarantee the effective exercise of freedom of religion and belief and freedom to manifest a religion or belief in law and in practice. It should revise all relevant laws and practices with a view to removing all restrictions that go beyond the narrowly construed restrictions permitted under article 18 of the Covenant.**

#### **Conscientious objection to military service**

45. The Committee, while noting that a working group was created to develop a new draft law on alternative service, remains concerned (CCPR/C/TJK/CO/2, para. 21) that the current legislation still does not provide for the right to conscientious objection to compulsory military service (art. 18).

**46. The State party should step up its efforts to adopt the legislation necessary to recognize the right to conscientious objection to military service without discrimination as to the nature of the beliefs (religious or non-religious beliefs grounded in conscience) justifying the objection, and to ensure that alternative service is not punitive or discriminatory in nature or duration by comparison with military service.**

#### **Freedom of expression**

47. The Committee remains concerned (see CCPR/C/TJK/CO/2, para. 22) about restrictions on the freedom of expression in law and in practice that do not appear to comply with the Covenant, including:

(a) Criminalization of insulting or libelling the President/leader of the nation (art. 137 of the Criminal Code) and insult against other State officials (art. 330 of the Criminal Code);

(b) State control over the media resulting in self-censorship by media outlets and journalists;

(c) The required registration of all new periodicals and printing houses with the State Committee for National Security, pursuant to the regulations adopted in February 2017;

(d) Periodical blocking of media platforms such as BBC and CNN and of social media and search platforms such as Facebook and YouTube;

(e) The requirement to obtain written official approval for any book that is brought into or taken out of the country;

(f) Obstacles to the effective exercise of the right of access to information held by public bodies in practice;

(g) The lack of independence of the broadcasting and licensing authority, the State Committee for Television and Radio Broadcasting;

(h) Harassment of independent journalists and media workers for critically reporting on State policies and on other matters of public interest, including through intimidation, the use of civil defamation suits and the imposition of disproportionate sanctions as a result, and prosecutions on allegedly trumped-up charges, including fraud, extortion and extremism (arts. 9, 14, and 19).

**48. The State party should revise its laws and practices with a view to guaranteeing the full enjoyment of freedom of expression and peaceful assembly by everyone,**

taking into account the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. It should, inter alia:

- (a) Consider decriminalizing insulting or libelling the President/leader of the nation and insulting other State officials;
- (b) Promote plurality of opinions in the media and ensure that the media and media workers can operate free from undue State interference;
- (c) Repeal or otherwise amend the laws and regulations providing for the restrictions referred to above, with a view to bringing them into full compliance with the State party's obligations under the Covenant;
- (d) Lift all other undue restrictions on the exercise of freedom of expression and ensure that any restrictions comply with the strict requirements of article 19 (3) of the Covenant;
- (e) Ensure that the right of access to information held by public bodies can be effectively exercised in practice, including by addressing any practical or administrative obstacles to processing information requests and by ensuring timely responses to such requests;
- (f) Take all measures necessary to ensure the independence of the broadcasting and licensing authority;
- (g) Ensure the effective protection of independent journalists and media workers against any form of intimidation and refrain from using civil and criminal provisions, including the provisions on extremism, as well as other regulations, as a tool to suppress critical reporting on matters of public interest.

#### **Peaceful assembly**

49. The Committee is concerned about undue restrictions on the exercise of freedom of peaceful assembly, including those set out in the Meetings, Rallies, Demonstrations and Processions Act (2014), such as the requirement of prior authorization for holding assemblies (15 days' advance notice), the limitation of assemblies to certain areas and hours of the day, the ban on night protests, the ban on persons with a record of certain administrative offences from organizing assemblies, and restrictions on the participation of foreign nationals in assemblies (art. 21).

50. **The State party should revise its laws, regulations and practices, including the 2014 Meetings, Rallies, Demonstrations and Processions Act, with a view to guaranteeing the full enjoyment of the right to freedom of assembly, both in law and in practice, and to ensuring that any restrictions on the freedom of assembly comply with the strict requirements of article 21 of the Covenant.**

#### **Freedom of association**

51. The Committee is concerned at reports of frequent inspections of non-governmental organizations (NGOs) resulting in fines or even closure of some of them. The Committee is also concerned about the chilling effect on the activities of NGOs as a result of the financial reporting requirements introduced by the amendments to the Public Associations Act, adopted on 2 January 2019, aimed at preventing money laundering and the financing of terrorism through NGOs. The Committee also notes that a working group was set up in May 2019 to draft a new law on non-commercial organizations and regrets the lack of information on this draft (arts. 19 and 22).

52. **The State party should ensure that existing relevant laws, regulations and practices governing public associations and NGOs, including any such future regulations, are in full compliance with the provisions of articles 19 and 22 of the Covenant, including by ensuring that they do not lead in practice to undue control over or interference in the activities of NGOs.**

### **Participation in public affairs**

53. The Committee notes with concern that the ban on religious and ethnicity-based political parties, introduced by the constitutional amendments of 2016, raises issues of compatibility with the Covenant. It remains concerned (see CCPR/C/TJK/CO/2, para. 24) about politically motivated harassment of opposition members that undermines genuine political pluralism and notably about: (a) the harassment and lengthy prison sentences handed down in respect of the leaders of the Islamic Renaissance Party after unfair and closed trials (see para. 37 above) and the imprisonment of party members following the designation of the party in 2015 as “terrorist” for their alleged involvement in the attempted violent seizure of power; (b) the persecution of members of the opposition movement, Group 24, which was declared as “extremist”, including prosecutions, convictions and the alleged enforced disappearance of Ehsan Odinaev in 2015; and (c) serious harassment, and often imprisonment, of family members of opposition groups or of individuals associated with such groups (arts. 7, 9, 14, 19, 22 and 25).

54. The Committee is concerned that the current electoral framework provides for undue limitations on the right to stand for elections, owing to strict eligibility requirements, such as those related to language, education and residency, and on the right to vote owing to the denial of the right to vote to any person declared incompetent by a court or serving a prison sentence, regardless of the severity of the crime. The Committee is also concerned about the insufficient independence of the Central Commission for Elections and Referendums and about the reported irregularities during the parliamentary elections of 2015, in particular the limited or non-existent access to State-run television for opposition politicians, the minimal broadcast time allowed to express their political views and the blocking of opposition party websites (arts. 10 (3), 19, 25 and 26).

**55. The State party should bring its electoral regulations and practices into full compliance with the Covenant, including its article 25, inter alia by:**

(a) **Giving full effect to the right of every citizen to genuinely take part in the conduct of public affairs and fostering a culture of genuine political pluralism;**

(b) **Refraining from using criminal laws as a tool to harass and exclude opposition members from meaningful participation in public life and electoral processes, and conducting a thorough, credible and impartial investigation into the alleged enforced disappearance of Ehsan Odinaev;**

(c) **Revising the limitations on the right to stand for election, with a view to ensuring their compatibility with the Covenant;**

(d) **Revising legislation that provides for a blanket denial of the right to vote to all convicted prisoners, which does not meet the requirements of article 10 (3), read in conjunction with article 25, of the Covenant and for denial of the right to vote to any person declared incompetent by a court;**

(e) **Ensuring the full independence of the Central Commission for Elections and Referendums;**

(f) **Implementing equal electoral campaigning conditions for all, including equal access to State-run television.**

### **D. Dissemination and follow-up**

56. **The State party should widely disseminate the Covenant, its first Optional Protocol, its third periodic report, the written replies to the Committee’s list of issues and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the periodic report, the written replies and the present concluding observations are translated into the official languages of the State party.**

57. In accordance with rule 75, paragraph 1, of the Committee's rules of procedure, the State party is requested to provide, by 26 July 2021, information on the implementation of the recommendations made by the Committee in paragraphs 42 (surveillance and interception of private communications), 48 (freedom of expression) and 55 (participation in public affairs) above.

58. The Committee requests the State party to submit its next periodic report by 26 July 2025 and to include in that report specific up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The Committee encourages all States to follow the simplified procedure when submitting their reports. Should the State party wish to follow the simplified reporting procedure for its next report, it is requested to inform the Committee accordingly, within one year of receipt of these concluding observations. The State party's replies to the list of issues prepared by the Committee under the simplified reporting procedure will constitute the next periodic report to be submitted under article 40 of the Covenant.

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