

Freedom of Expression

**Tajikistan's 3rd Universal Periodic Review
37th Session
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This advocacy paper was developed by the Centre of Civil and Political Rights¹ and the Bureau of Human Rights and Rule of Law² in support of Tajikistan's Universal Periodic Review in the UN Human Rights Council in 2021. The paper uses and presents material provided by several national NGOs, including their information and recommendations.

Issue

Over the last 10 years, numerous mass media have disappeared. Censorship and self-censorship among journalists and mass media are reported. There are reports about persecution and even physical violence against journalists. Defamation remains a criminal offence. Yet, despite decriminalisation of some offences related to misinformation, criminal prosecution of journalists continues on the ground of various alleged offences by them. They feel unsafe to share information on sensitive topics due to fear of persecution for themselves or their family members. Access to information from government agencies, especially on issues causing public interest, is very difficult.

Observers report the practice of extra-judicial blocking of websites and interrupted access to the Internet. Since 2014 amendments to the Law "On the Legal Status of the State of Emergency", authorities are entitled to restrict public access to the Internet and mobile communication, in addition to restricting work of journalists. Further amendments, introduced in 2017, gave law-enforcement access to users' browsing history; visiting certain "undesirable" websites or commenting could lead to criminal persecution and deprivation of liberty.

With the COVID-19 pandemic, mass media found themselves in an extremely challenging situation, with incomes from advertisement reduced, access to information curtailed, extremely poor quality of internet access at online meeting and pressure exerted by authorities. Personal protective equipment was not accessible to many journalists from independent mass media entities. Any topic related to the

1 The Centre of Civil and Political Rights is a Geneva-based, independent, non-governmental organisation seeking to realise the vision of a world where the civil and political rights are protected, respected and fulfilled for everyone without discrimination through universal ratification and implementation of the International Covenant on Civil and Political Rights.

2 The Bureau of Human Rights and Rule of Law is a non-governmental human rights organisation registered in the Republic of Tajikistan that promotes human rights and fundamental freedoms, implementation of international human rights standards in the national legislation and practice and democratic reforms in Tajikistan.

pandemic raised discontent among authorities. Medical workers were not willing to give comments to journalists. A website containing alternative information on the death cases allegedly caused by COVID-19 was blocked. In 2020, dissemination of false information about the pandemic was criminalised; an offender could face detention for 10-15 days.

Recommendations of the UN Human Rights Committee (2019)

In its Concluding Observations on the 3rd periodic report of Tajikistan in 2019, the UN Human Rights Committee expressed its concern about “*restrictions on the freedom of expression in law and in practice that do not appear to comply with the Covenant*”. The Committee referred to:

- “(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).”

The Committee recommended the State Party to “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.”. In the view of the Committee, it would include:

- (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.

The Committee included the above-mentioned recommendations on the freedom of expression in the list for the followup procedure, asking the Republic of Tajikistan to provide information on implementation by July 2021.

Suggested advance questions to ask during the UPR dialogue

1. Is the Republic of Tajikistan planning to revise and improve its legislation on freedom of expression?
2. How does the Republic of Tajikistan ensure that restrictions on freedom of expression, including via the Internet, are compliant with its obligations under international human rights law?
3. How is the Republic of Tajikistan planning to guarantee that journalists and others fully enjoy their human right to freedom of expression without fear of persecution?
4. How was the priority followup recommendation of the UN Human Rights Committee regarding the freedom of expression was implemented?

Suggested recommendations

1. Remove excessive restrictions on the right to freedom of expression
2. Cease the persecution of journalists for their legitimate activity and conduct in-depth investigation of evidence of attacks against journalists, and bring to adequate responsibility those who will be found guilty
3. Cease the practice of unduly blocking of the Internet
4. Provide access to information and freedom of speech to all mass media and organisations
5. Repeal the excessive restrictions for import, export and publishing of books; repeal the requirement to obtain permissions from the State Committee for National Security
6. Remove excessive penalisation of free speech, including libel and misinformation



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