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**Consejo de Derechos Humanos**
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**Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo**

# Informe del Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión acerca de su misión a Tayikistán*

## Nota de la Secretaría

La Secretaría tiene el honor de transmitir al Consejo de Derechos Humanos el informe del Relator Especial sobre la promoción y protección del derecho a la libertad de opinión y de expresión acerca de su misión a Tayikistán, que tuvo lugar del 3 al 9 de marzo de 2016. El Representante Especial encuentra importantes motivos de preocupación relativos a la represión que lleva a cabo el Gobierno del derecho a la libertad de opinión y de expresión: intimidación de los medios de comunicación; censura y vigilancia de Internet, lo que incluye el bloqueo de sitios web y repetidas clausuras de servicios de telecomunicaciones durante épocas de manifestaciones públicas; restricciones draconianas a las voces disidentes; y la reducción del espacio de la sociedad civil. En el año transcurrido desde la visita, la situación se ha deteriorado hasta tal punto que la libertad de expresión, que antes estaba en crisis, actualmente es difícil de reconocer como un valor promovido o protegido por las autoridades públicas. El Relator Especial, si bien formula recomendaciones discretas y específicas, considera que ha terminado ya el tiempo de lo concreto; el Gobierno está obligado con arreglo al derecho de los derechos humanos a reconsiderar completamente su enfoque de las restricciones a la oposición, los medios de comunicación, Internet y la sociedad civil en general.

* Este informe se presenta con retraso para poder incluir en él la información más reciente.

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# Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Tajikistan**

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** Circulated in the language of submission and Russian only.

# I. Introduction

1. Pursuant to Human Rights Council resolution 25/2, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression undertook an official visit to Tajikistan from 3 to 9 March 2016. The Special Rapporteur's aim was to gather information, engage in a dialogue with the Government and other actors concerning freedom of expression in the country, and offer recommendations to the Government and other stakeholders.

2. The Special Rapporteur expresses his gratitude to the Government for its invitation and its support in the preparation of meetings with officials, and he underlines his desire to continue the dialogue initiated during his visit. The Special Rapporteur met with the Minister of Justice, the Minister of Culture and the Commissioner for Human Rights (Ombudsman), as well as senior representatives from the Ministry of Foreign Affairs, the Ministry of Internal Affairs, the parliament, the Supreme Court, the Constitutional Court, the Office of the Prosecutor General, the State Committee for National Security, the State Committee for Communications Services, the State Committee for Television and Radio Broadcasting and the Khovar News Agency.

3. The Special Rapporteur also met with representatives from the United Nations country team, the Organization for Security and Cooperation in Europe (OSCE) and others in the international community. He thanks the United Nations office in Dushanbe for its invaluable support.

4. As with any country mission, the views and testimonies of those most affected by restrictions are critical in order to have a full picture of the human rights situation. The Special Rapporteur thus met representatives of non-governmental organizations (NGOs), journalists, media associations, families of individuals who have been detained, and lawyers. He thanks all those who shared their perspectives and their often painful stories with him over the course of his visit.

5. The Special Rapporteur notes that his visit took place at a time of increasing repression of freedom of expression in Tajikistan. It is true that the exercise of freedom of expression is guaranteed by the Constitution of Tajikistan, a point of pride highlighted by members of the Supreme Court. The country has acceded to the International Covenant on Civil and Political Rights and has enacted several laws that ostensibly promote freedom of expression. After the Special Rapporteur's visit, Tajikistan accepted a number of recommendations relating to the promotion and protection of the right to freedom of expression that were made in May 2016 during its universal periodic review before the Human Rights Council (see A/HRC/33/11). Yet, despite those important legal obligations and commitments, multiple additional laws, decrees, and policies — particularly those concerning terrorism, extremism and national security — are deeply eroding the protection of the right to freedom of expression.

6. In particular, since 2015, interlocutors from across civil society, international organizations and NGOs have noted with alarm a sharp increase in restrictions on dissent. The Special Rapporteur noted those same trends, and yet evidently the situation has continued to deteriorate in the period between his visit and the writing of the present report. During that time, a constitutional referendum was conducted, the result of which was to ban the establishment of political parties based on religion or nationalism and to consolidate the President's hold on power. In addition, several leaders of the country's main opposition party, the Islamic Renaissance Party of Tajikistan, were sentenced to lengthy prison terms and a number of human rights lawyers and other individuals who were critical of the Government remained in detention or continued to face legal and extralegal threats.

7. Despite having grave concerns about the future of free expression in Tajikistan, the Special Rapporteur hopes that the willingness of government authorities to engage in dialogue with international human rights mechanisms portends a change in law, in policy and in practice. But the trend is not hopeful. Nonetheless, the present report was prepared with the aim of furthering the discussions initiated during the Special Rapporteur's visit,

not only by identifying areas of very serious concern, but also by providing recommendations on the way ahead.

# II. International legal standards

8. Article 19 (1) of the International Covenant on Civil and Political Rights, to which Tajikistan acceded on 4 January 1999, guarantees everyone's right to hold opinions without interference. The right to freedom of opinion is not subject to derogation in ordinary circumstances or during states of emergency (see the Human Rights Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, para. 5). Article 19 (2) protects everyone's right to freedom of expression, including freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, through any media. In accordance with article 19 (3), any restriction imposed on that right must be provided by law and be necessary and proportionate for respect of the rights or reputations of others, or for the protection of national security or public order, or of public health and morals. Article 20 calls for the prohibition of any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Restrictions on the basis of article 20 must also meet the conditions laid down by article 19 (3) (see general comment No. 34, para. 50).

9. The rights to freedom of opinion and expression also include religious opinion and expression. Furthermore, article 18 protects everyone's right not only to freedom of thought, conscience and religion, but also freedom, either individually or in community with others, to manifest his religion or belief in worship, observance, practice and teaching (see A/HRC/31/18). The Covenant establishes narrow scope for permissible restrictions to the right to freedom of religion, providing in article 18 (3) that the manifestation of one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

10. The rights to freedom of peaceful assembly and of association are often crucial vehicles for the collective exercise of the right to freedom of expression. The freedom of peaceful assembly under article 21 of the Covenant and freedom of association under article 22 are likewise subject only to narrowly permissible limitations based on the principles of legality, necessity and proportionality.

11. Tajikistan is a party to other international human rights treaties containing provisions relevant to the right to freedom of expression, including the International Covenant on Economic, Social and Cultural Rights, to which it acceded on 4 January 1999, the International Convention on the Elimination of All Forms of Racial Discrimination, to which it acceded on 11 January 1995, and the Convention on the Rights of the Child, to which it acceded on 26 October 1993. It is also a member of OSCE, which emphasizes and promotes the values of freedom of expression and media freedom in particular.

# III. Constitutional framework

12. The Constitution of Tajikistan guarantees the right to freedom of expression.[1] Article 30 of the Constitution is explicit in providing that everyone shall be guaranteed freedom of speech, publishing and the right to use means of information. Propaganda, agitation and kindling social, racial, national, religious and linguistic enmity and hostility shall be prohibited. State censorship and prosecution for criticism shall be prohibited. The law specifies the list of information constituting a State secret. There are specific implementing laws that have the purpose of ensuring the above-mentioned protections. Freedom of association and freedom of religion are also contemplated by the Constitution. Article 26 enshrines the right to express religious beliefs freely through participation in religious

[1] The text of the Constitution, in English, without the 2016 amendments, may be found at www.president.tj/en/taxonomy/term/5/28. Citations to the Constitution in the present report are to that version.

customs and ceremonies. Article 28 guarantees the right to associate and form political parties.

13. Despite constitutional protections, recently adopted constitutional amendments combined with several additional national laws have significantly jeopardized the protection of the right to freedom of expression, as well as to the rights to freedom of association and freedom of religion.[2] During the Special Rapporteur's visit, a wide range of interlocutors raised concerns about the proposed amendments, which had not yet been adopted at that time. On 22 May 2016, a referendum resulted in the adoption of 41 amendments to the Constitution. The amendments were subject to a package vote enabling citizens to vote only in favour or against the whole set of proposals.

14. The amendments resulted in a Constitution that eliminated the limits on the term of office for the incumbent President, using his new statutory designation as "The Founder of Peace and National Unity, Leader of the Nation". They also prohibit political parties of nationalist and religious character, which appears to be in conflict with article 28 of the Constitution, which provides that citizens shall have the right to participate in the creation of political parties, including parties of a democratic, religious or atheistic character.

15. Moreover, the amendments make a potentially significant modification to article 14, which had previously provided that the limitation in implementing the rights and liberties of citizens was allowed only to ensure the rights and liberties of others, public order, and to safeguard the constitutional structure and the territorial integrity of the Republic. That statement of limitations, while vague in part, is largely consistent with human rights law. The amendments, however, replace the term "constitutional structure" with a list consisting of the basics of the constitutional structure, State security, the defence of the country, the behaviour of the community and the health of the population. In the absence of further information about the meaning of those terms, the Special Rapporteur is concerned that they could be used to limit fundamental freedoms in ways that go beyond what is permitted under human rights law.

16. The present report addresses domestic legal constraints, but it also bears noting that several major pieces of domestic legislation have broad implications for the exercise of the right to freedom of expression across many areas of public and private life. Among the most important are those dealing with terrorism and extremism, which have an impact on the media, opposition politics, civil society activism and other legitimate exercises of freedom of opinion and expression. The Counter-Terrorism Act (1999) and the Anti-Extremism Act (2003) broadly define "terrorism" and "extremism" and give extensive powers to the Government to conduct counter-terrorism activities in ways that severely curtail freedom of expression. For example, article 3 of the Counter-Terrorism Act defines "terrorism" as "violence or threat of violence against individuals … legal entities … the destruction of or threat to destroy property and other material objects … which threaten to cause loss of life, significant damage to property, or other socially dangerous consequences and are implemented with a view to violating public security, intimidating the population, or influencing the adoption by State organs of decisions advantageous to terrorists, or satisfying their unlawful material and (or) other interest". In article 3 of the Anti-Extremism Act, extremism is defined as "the manifestation by legal entities and physical persons of expression of extreme forms of action calling for destabilization, change of the constitutional system in the country, seizure of power and assignment of its powers, incitement to racial, national, social and religious strife". Amendments to the Criminal Code signed into law on 14 November 2016 provide for imprisonment from 3 to 10 years for the public justification of terrorist or extremist activity. Similarly, the use of the mass media or the Internet for that same purpose is punished with imprisonment from 10 to 15 years. The law defines "public justification of terrorist and extremist activity" as "public propaganda on the recognition of the correctness of the ideology and practices of terrorism and extremism and inviting people to follow or support it". While the Special Rapporteur is cognizant of the real threat of violent extremism and religious radicalization facing

[2] The text of the amendments, in English, may be found at www.anrt.tj/index.php/en/news/714-amendments-and-supplements-to-the-constitution-basic-law-of-the-republic-of-tajikistan. Citations to the amendments in the present report are to that version.

Tajikistan, he is concerned that the legislative framework that is currently in place is counterproductive to meet those challenges.

# IV. Restrictions on media freedom

## A. Legal framework

17. The domestic laws of Tajikistan provide for the protection of the right of access to information and for the freedom of the media. The Right of Access to Information Act, law No. 411 of 2008, creates the legal conditions for every citizen to freely exercise their right to search for and retrieve information.[3] The law covers both mandatory dissemination of information to the public, and personal and collective requests for information (art. 7). The access to information provided for in the law includes the requirement that all State agencies hold a minimum number of press conferences each year. The Special Rapporteur was told that by presidential instruction in September 2011, the number was reduced from a minimum of four to a minimum of two press conferences every year.

18. The Press and Other Media Act, law No. 961 of 2013, provides for basic freedom of the press, precluding censorship by providing in article 2 that the press and other mass media in Tajikistan shall enjoy freedom. It also provides that all citizens shall have the right to freely express convictions and hold opinions, to impart them in any form through the press and other mass media, and that no censorship of the mass information shall be allowed.[4]

19. The Press and Other Media Act builds on the Right of Access to Information Act, establishing protections for journalists and owners of media outlets by recognizing the State's obligations as a party to the International Covenant on Civil and Political Rights to promote and defend freedom of expression, establishing a legal recourse for media outlets that are refused access to information by the Government (art. 27).

20. According to officials with whom the Special Rapporteur met, in the summer of 2015 the Government issued a directive ordering all officials to share information only with the State-run news agency, Khovar, which would then be the main channel for further distribution of information to all other outlets in the Tajik media. The National Association of Independent Media alleged that the directive violated constitutional guarantees to equal access to information. The Special Rapporteur emphasizes that providing Khovar with a gatekeeper function for information restricts the public's right of access to information on grounds not evidently rooted in permissible limitations under the Covenant.

## B. Pressure against journalists and media outlets

21. Despite formal legal protections, journalists and independent media workers reported legal and extralegal pressures exerted by government officials in order to limit reporting and criticism. A number of interlocutors shared with the Special Rapporteur their deep concern about the ability of the media to report on government actions, to conduct investigations into matters of significant public interest, such as the alleged military mutiny in September 2015, and to provide a forum for the dissemination of critical ideas. An overall concern that was repeatedly raised with the Special Rapporteur was that largely undefined restrictions based on "extremism" and support for terrorism are having a chilling effect on journalism, on reporters' ability to cover stories of public interest safely and on publishers' and editors' willingness to authorize such reporting. Meanwhile, the blocking

[3] An English translation of the law is available at http://right2info.org/resources/publications/tajikistan-ati.

[4] An unofficial translation into English is available at www.nfoic.org/tajikistan-media-law.

by the Government of foreign social media and search websites has drastically constrained the public's access to information beyond the frontiers of Tajikistan.[5]

22. The Special Rapporteur received credible reports of harassment of journalists that had taken place over the past several years, focused on pretexts such as fraud, extortion, organized crime or extremism. Journalists covering the political situation in the country and investigating corruption seem to be particularly affected by harassment. Journalists told the Special Rapporteur that the Government attempts to discredit them to their colleagues. Some journalists noted that they had been invited to the Prosecutor General's Office, where they had been intimidated and ordered to stop their reporting. Other journalists claimed that they had been followed, threatened online or telephoned with threats to themselves or their families. Editors reported being pressured to fire reporters who wrote articles that were critical of the Government.

23. Over the past year, the Special Rapporteur has received reports of the use of journalist accreditation procedures to exercise pressure. According to the reports, on 25 November 2016, six employees of Radio Liberty lost their accreditation to report news in Tajikistan after having reported on the appointment of the President's daughter to the Ministry of Foreign Affairs. However, their accreditation was restored 10 days later after Radio Liberty contested that decision.[6] Additionally, a Radio Ozodi employee lost his accreditation, and a British Broadcasting Corporation correspondent was threatened with losing hers, before eventually being forced to refrain from publishing for one month.

24. In 2016, the parliament considered amendments to the Press and Other Media Act that would modify when media outlets could be suspended. After a strongly negative reaction by journalist and media organizations, the parliament opened consultations on the proposed amendments. In May 2016, it adopted the amendments which, despite some modifications, established the capacity of the Prosecutor General or the body authorized to regulate registration to request from a court an order to suspend the activities of a mass media outlet.[7]

25. Journalists indicated to the Special Rapporteur that registration requirements had been used against media outlets critical of the Government even before the adoption of amendments to the Act. Sources informed the Special Rapporteur that at least two independent news outlets had closed down in the recent past as a result of difficulties associated with the current climate in journalism in Tajikistan. In November 2016, the independent newspaper *Nigoh* closed its print edition reportedly because of a pattern of reporting said to be disliked by official authorities.[8] Reports indicate that the newspaper was under extreme pressure due to articles critical of the situation involving the Islamic Renaissance Party of Tajikistan and the trial of its lawyer, in addition to reporting deemed to be insulting to the President. The news agency *Tojnews* was shut down two weeks later without providing an official reason, but self-censorship has reportedly increased further among journalists and news outlets after financial and other threats from the Government.

26. The Special Rapporteur also received information concerning the blocking of access to the news sites Asia Plus, Radio Free Europe/Radio Liberty and Ozodagon, all allegedly at the request of the authorities. Although the Government denied complicity, the Special Rapporteur heard credible reports that the Government had ordered the blocking of those sites, which reportedly remained unavailable in Tajikistan even at the beginning of 2017.[9]

[5] See European Journalism Observatory, "Tajikistan: new moves to censor critical news media", 18 August 2016. Available at http://en.ejo.ch/media-politics/press-freedom/tajikistan-new-moves-to-censor-critical-news-media.

[6] See Radio Free Europe, "Update: accreditation restored to RFE/RL journalists in Tajikistan", 6 December 2016. Available at https://pressroom.rferl.org/a/28144378.html.

[7] See European Journalism Observatory, "Tajikistan: new moves to censor critical news media", 18 August 2016. Available at http://en.ejo.ch/media-politics/press-freedom/tajikistan-new-moves-to-censor-critical-news-media.

[8] See Radio Free Europe, "Independent Tajik newspaper suspends operations", 5 November 2016. Available at www.rferl.org/a/independent-tajik-newspaper-suspends-operations/28098259.html.

[9] See International Partnership for Human Rights, "Declining civic space in Tajikistan", 3 March 2017. Available at http://iphronline.org/declining-civic-space-tajikistan-20170303.html.

The Special Rapporteur received further allegations concerning the blocking, intimidating and threatening of independent media in the build-up to the referendum of May 2016.[10] Those actions resulted in a lack of access to information and a general suppression of dissenting voices.

## C. Criminal defamation

27. The parliament decriminalized defamation in 2012, a positive step to bring domestic law into accordance with international human rights standards. Nonetheless, articles 137 and 330 of the Criminal Code continue to include the criminal offence of defamation and insult of the President and State officials. Public insult of the President, through the press or mass media, is still punishable by jail terms of up to five years.[11] On 26 October 2016, the lower house of parliament endorsed a new law on The Founder of Peace and National Unity, Leader of the Nation, which grants President Rahmon the status of "The Founder of Independent Tajikistan". On 8 November 2016, the upper house of parliament adopted amendments to the Criminal Code through the adoption of article 137 (1) and criminalized the act of insulting the Leader of the Nation. The law came into force on 17 November 2016. According to the changes, publicly insulting the Leader of the Nation through the mass media or on the Internet, or slander addressed at him, is punishable by up to five years in prison. Such special protection against criticism is not in accordance with international standards. The Human Rights Committee underlined in its general comment No. 34 that laws should not provide for more severe penalties solely on the basis of the identity of the person and that the value placed by the International Covenant on Civil and Political Rights upon uninhibited expression is particularly high in the circumstances of public debate in a democratic society concerning figures in the public and political domain. Thus, the mere fact that forms of expression are considered to be insulting to those figures is not sufficient to justify the imposition of penalties.

28. Civil defamation is included in the Civil Code; the relevant provision is reportedly frequently used to harass journalists and those expressing critical opinions.[12] Article 174 protects honour, dignity and business reputation and provides for compensation for "moral damages". The provision requires that defendants demonstrate the truthfulness of their statements. The civil defamation provisions provide for excessive financial compensation for defamatory statements. Articles 171 and 1116 (2) provide that, when determining the amount of compensation, the court must take into account the extent of the moral suffering of the victim and the violator's guilt, as well as the principles of reasonableness and fairness. Article 1115 (2) provides that moral damage is compensated regardless of the guilt if damage is inflicted by disseminating information defaming honour, dignity and business reputation. Numerous interlocutors raised concern that the civil defamation provisions impose high costs on the ability of reporters to investigate matters of public interest, especially such issues as corruption and the multifarious business and government networks of the President's family.[13] The Special Rapporteur is concerned at the chilling effect of those provisions on the exercise of the freedom of expression and on the work of journalists, particularly their reporting on public figures and government affairs.

[10] See Reporters Without Borders, "RSF condemns continuing harassment of independent media in Tajikistan", 21 May 2016. Available at https://rsf.org/en/news/rsf-condemns-continuing-harassment-independent-media-tajikistan.

[11] See www.state.gov/documents/organization/265762.pdf and www.news.tj/en/news/tajikistan/power/20161108/5-years-of-imprisonment-for-insulting-the-nations-leader-in-tajikistan.

[12] See Article 19, English Pen and Pen International, "Submission to the universal periodic review of Tajikistan", 21 September 2015. Available at www.upr-info.org/sites/default/files/document/tajikistan/session_25_-_may_2016/js1_upr25_tjk_e_main.pdf.

[13] See also OSCE, "Defamation and insult laws in the OSCE region: a comparative study", March 2017. Available at www.osce.org/fom/303181?download=true.

# V. Restrictions on Internet and mobile communications

29. The amended law on the state of emergency authorizes the Government to block mobile services and access to the Internet without a court order following the announcement of a state of emergency. Amendments to the Counter-Terrorism Act adopted in 2015 provide for blocking the Internet and telecommunications systems during counter-terrorism operations, particularly if those media are being used to spread so-called "forbidden information".[14]

30. Neither the Internet nor mobile access is legally protected in Tajikistan. Despite the obligations of Tajikistan under the International Covenant on Civil and Political Rights to guarantee freedom of expression regardless of frontiers and through any media, the Government's blocking of mobile services and Internet access is legal under domestic legislation and, according to reports confirmed by at least one senior security official during the Special Rapporteur's visit, occurs frequently. On 11 November 2016, the Single Communications Switching Centre (or Nexus) was established by means of Presidential Decree No. 765, giving the Government complete control over domestic communications without legal safeguards.[15] The Switching Centre provides that all Internet and mobile communications be run through a single, State-owned telecom provider (Tojiktelecom). Decree No. 765 bolsters the Government's power to shut down and block services without obtaining the assistance of service providers.[16]

31. The Switching Centre also enhances the ability of the Government to surveil domestic and international communications. The Special Rapporteur received allegations that the Government is already regularly conducting surveillance of domestic communications. The Switching Centre will allegedly enable surveillance to be conducted without making requests of service providers or telecommunications companies, as the Government will have direct access to the communications networks.

32. The Special Rapporteur notes with concern the many reports he received about the blocking of multiple websites and social media and search platforms, such as Facebook, Vkontakte, YouTube and Twitter, particularly those that officials consider to be promoting "extremism". Although staff of some government agencies told the Special Rapporteur that website shutdowns were the result of technical difficulties, others admitted that the Government deliberately blocks certain sites. Other reports suggest that the Government has justified shutdowns on behalf of reports from "concerned citizens". One security official told the Special Rapporteur that security agencies would like to be more discriminating and block only offending or unlawful posts or videos, but he claimed they do not have the technical expertise to do so. It was simply "easier", he said, to block entire sites, even if it infringed on human rights. While targeted and time-limited restrictions demonstrating necessity and proportionality may be justified in specific circumstances, blanket shutdowns of entire social media sites are neither necessary nor proportionate to protect public order or national security.

33. TeliaSonera, the owner of the mobile provider Tcell, has reported that the Government requested the blocking of at least 84 websites in June 2015.[17] The Special Rapporteur has also learned of numerous instances in which mobile services were blocked on the orders of the Government. For instance, in October 2014, the Government reportedly ordered the blocking of all SMS messaging just as a political organization was calling for

[14] See Tajikistan News Agency, "Tajik government proposes amendments to the country's law on combating terrorism", 16 November 2015. Available at https://news.tj/en/news/tajikistan/power/20151116/tajik-government-proposes-amendments-country-s-law-combating-terrorism.

[15] See Reporters Without Borders, "RSF reinforces alliance with partner in Tajikistan", 28 November 2016. Available at https://rsf.org/en/news/rsf-reinforces-alliance-partner-tajikistan.

[16] See www.teliacompany.com/en/news/news-articles/2016/respecting-freedom-of-expression--information-about-and-telia-company-view-on-new-legislation-in-tajikistan/.

[17] See www.teliacompany.com/en/news/news-articles/2015/update-6-july---freedom-of-expression---major-event-as-to-service-limitations-in-tajikistan-9-october-2014/.

peaceful public protests.[18] Similarly, beginning on 4 September 2015, citizens were reportedly denied Internet access to some sites for three weeks.[19]

34. Since the Special Rapporteur's visit, it has been reported that mobile telephone operators in Tajikistan have begun reregistering all SIM cards in accordance with amendments to the law on electronic communications[20] as part of a strategy to combat terrorist threats.[21] Government officials expressed concern that citizens are purchasing SIM cards and giving or selling them to members of extremist groups. However, reregistration could have a significant and widespread effect on freedom of expression in the country. Reregistering requires citizens to bring their passports and SIM cards to an official service centre. If a SIM card is not reregistered within a year, it will be deactivated. Such mandatory registration undermines the right to communicate anonymously, particularly for those who access the Internet through mobile technology, and it enables the Government to monitor individuals and journalists beyond legitimate government interest (see A/HRC/29/32, para. 51).

# VI. Restrictions on opposition voices

35. Throughout the Special Rapporteur's visit, the prevailing concern of nearly all interlocutors outside the Government was the nature of restrictions, followed by criminalization, of the opposition parties, especially the Islamic Renaissance Party of Tajikistan and the political collective known as "Group 24". The space for political opposition voices in Tajikistan had already come under severe threat in recent years. The dismantling of the most important political opposition force, the Islamic Renaissance Party of Tajikistan, and the persecution and criminalization of its members, as well as of other potentially independent political forces, highlight the lack of space for opposing the ruling authorities. That deterioration has been hastened by legal changes further restricting the functioning of political parties and paving the way for the perpetuation of the current leadership in power. The detention and intimidation of lawyers has further stimulated a widespread sense of insecurity among all critical voices in the country.

## A. Legal restrictions on political parties

36. The constitutional amendments were a source of significant anxiety during the Special Rapporteur's visit, and their adoption on 22 May 2016 formalized the repressive political landscape.[22] The results of the referendum narrowed the space for political expression by amending article 8 of the Constitution. Article 8 already prohibited social associations that encourage nationalism, racism and religious enmity, as well as those that advocate the forcible overthrow of constitutional structures and the formation of armed groups. The new ban on political parties based on religion is especially relevant as it directly affects the constituency previously represented by the Islamic Renaissance Party of Tajikistan, which was the only religiously affiliated political party in existence in Tajikistan or in any of the former Soviet successor States in Central Asia. In fact, the introduction of the ban in the Constitution reversed the result of another referendum in 2003 that had ratified the legalization of political parties based on religion, and the participation of the Islamic Renaissance Party of Tajikistan in elections and in the country legislature,

[18] See Access Now, "Access decries SMS blocking and online repression in Tajikistan", 10 October 2014. Available at www.accessnow.org/access-decries-sms-blocking-and-online-repression-in-tajikistan/. See also Human Rights Watch, *World Report 2015: Tajikistan.* Available at www.hrw.org/world-report/2015/country-chapters/tajikistan.

[19] See https://freedomhouse.org/sites/default/files/NIT2016_Tajikistan.pdf.

[20] See www.adlia.tj/show_doc.fwx?rgn=126004 (in Russian only).

[21] See Eurasianet, "Tajikistan: SIM cards targeted in fight against terrorism", 2 November 2016. Available at www.eurasianet.org/node/81136.

[22] See Radio Free Europe, "Tajikistan approves constitutional changes tightening Rahmon's grip on power", 23 May 2016. Available at www.rferl.org/a/tajikistan-referenmdum-approved-rahmon-increasing-power/27751364.html.

consolidating the peace agreement that ended the civil war that had affected the country in the previous decade.

## B. Investigation, prosecution and imprisonment of opposition leaders

37. Reports of direct attacks on opposition parties and their leaders became particularly frequent during the two years prior to the Special Rapporteur's visit. In the elections of March 2015, the Islamic Renaissance Party of Tajikistan lost its remaining few seats in the parliament. At the time, monitors from the OSCE Office for Democratic Institutions and Human Rights reported concerns about government intimidation and ballot stuffing in that process. According to its final report, "the 1 March parliamentary elections took place in a restricted political space and failed to provide a level playing field for candidates" and "restrictions on the right to stand, freedoms of expression and assembly, and access to media limited the opportunity to make a free and informed choice" (p. 1).[23]

38. In March 2015, the leader of the Islamic Renaissance Party of Tajikistan, Muhiddin Kabiri, left the country to attend a conference. Soon after, the Prosecutor General's Office announced that it would be launching an investigation into a property sale in which Mr. Kabiri had been involved 15 years earlier. The party leadership saw that as a move to discredit their Party, and decided that Mr. Kabiri's return to Tajikistan would be too risky.[24] In June 2015, videos of Party members reporting that they were abandoning the party allegedly appeared online.[25] It was also reported that those appearing in the videos had been intimidated and harassed by officials.

39. Just as they have imposed a pall over the media, the counter-terrorism and anti-extremism laws have played a central role in the dismantling and criminalization of the relevant political opposition forces in the country. Based on the definitions of terrorism and extremism in those laws, the Prosecutor General and the Supreme Court declared that the Islamic Renaissance Party of Tajikistan and the political collective Group 24 were extremist or terrorist organizations and launched criminal proceedings against their members and, in some cases, against their members' lawyers and relatives. During his visit, the Special Rapporteur was particularly disturbed by the recurrent use of extremism and terrorism concerns as a justification for numerous measures limiting freedom of expression and inhibiting political dissent, especially due to the vague definitions of what constitutes "extremism" and "terrorism".

40. According to multiple reports, on 9 July 2015, the Prosecutor General's Office made an official statement about the Islamic Renaissance Party of Tajikistan, alleging a series of crimes committed by its members and claiming that the group no longer qualified as a political party as it had closed down many of its offices. In August 2015, the Ministry of Justice ordered the closure of the Party, stating that it did not have the sufficient number of members to qualify for official registration, and giving the party 10 days to shut down its activities.

41. In September 2015, the Government accused the Party of being linked to armed clashes between government forces and armed groups that allegedly took place in Dushanbe on 4 September 2015. On 29 September 2015, the Supreme Court officially declared the Party a terrorist organization and banned all future activities by the Party under the Counter-Terrorism Act. According to the ruling, distribution of any newspapers, videos, audio recordings, literature and leaflets connected to the Party is prohibited and its website has been blocked since that time.

42. At least 13 members of the Islamic Renaissance Party of Tajikistan leadership and its lawyers were detained in a wave of arrests beginning on 16 September 2015. During his visit, the Special Rapporteur was informed that they had been charged with various

[23] See www.osce.org/odihr/elections/tajikistan/158081?download=true.

[24] See Agnieszka Pikulicka-Wilczewska, "Exiled Tajik opposition leader speaks", *The Diplomat*, 1 May 2017. Available at http://thediplomat.com/2017/05/exiled-tajik-opposition-leader-speaks/.

[25] See Human Rights Watch, *World Report 2016: Tajikistan.* Available at www.hrw.org/world-report/2016/country-chapters/tajikistan.

offences, such as participation in a criminal group, incitement to national, racial or religious hatred, murder, terrorism, appeals to violent change of the constitutional order, illegal possession or transfer of weapons, and armed rebellion. Others, including allegedly at least 10 of Mr. Kabiri's relatives, were detained and later released.

43. The Special Rapporteur made repeated requests to visit the detained members of the Islamic Renaissance Party of Tajikistan, and their lawyers. He made the request to officials in the Ministry of Foreign Affairs, the Supreme Court and the Prosecutor General's Office. He greatly regrets that the Government did not respond to his requests to undertake such visits, in contravention of the mandate he enjoys from the Human Rights Council.

44. The trial of Islamic Renaissance Party of Tajikistan members commenced close to the time of the Special Rapporteur's visit. Proceedings took place in secret, reportedly inside a pretrial detention centre of the State Committee for National Security. With regard to the secrecy surrounding that process, the Special Rapporteur recalls that article 14 (1) of the International Covenant on Civil and Political Rights guarantees the right to a fair trial and provides that all court judgments, with a few specific exceptions, must be made public.

45. On 2 June 2016, about three months after the Special Rapporteur's visit, the detained leaders of the Islamic Renaissance Party of Tajikistan were sentenced. Saidumar Husaini and Mahmadali Hayit, the first deputy and deputy chairman of the party, were sentenced to life imprisonment, while other party leaders, Rahmatulloi Rajab, Sattor Krimov, Kiyomiddini Azav and Abdukahhori Davlat, were sentenced to 28 years in prison. Others received a variety of sentences, the shortest of which was two years in prison for the Party's legal advisor, Zarafo Rahmoni. In protest against those sentences, on 2 June 2016, the spouses of party officials held a peaceful protest walk to the local United Nations office. They were reportedly stopped during their march by local police and fined for failure to obey the police.

46. The intimidation of political activists through the harassment of family members was also reported on other occasions. Journalist Shukhrati Rahmatullo's father, who is in prison on charges related to the Islamic Renaissance Party of Tajikistan, was allegedly placed in solitary confinement and beaten. He was then told that his treatment was due to his son's reporting and that his son's silence was the price for the end to his ill-treatment. Vaisdiddin Odinaev, an activist, protested against the Government in Prague on 1 December 2016. Five days later, Mr. Odinaev's 75-year-old grandfather was reportedly interrogated in Tajikistan for five hours about his grandson, despite the fact that he had not seen him in years. A prominent Party member, Ilhomjon Yakubov, was featured in a video about human rights filmed in Poland. Since then, several of his relatives' homes have been confiscated and they have been forced to flee after threats of violence by community members.

47. The Government has also placed substantial pressure on other political leaders. Already in 2013, former Minister of Industry, Zayd Saidov, was arrested shortly after he announced the establishment of the New Tajikistan Party. Following a closed trial, Mr. Saidov was convicted and sentenced to 29 years in prison on charges of sexual offences and corruption.

48. The case of Umraili Kuvvatov, the leader of Group 24, is another example of the grave nature of the situation in Tajikistan. On 23 December 2012, Mr. Kuvvatov was arrested in Dubai on charges of fraud, at the request of the Tajik authorities. Mr. Kuvvatov created Group 24 as a movement in opposition to the current Government's leadership, and alleged that the fraud accusations against him were a direct consequence of his battle against the Government. Following his release in September 2013, Mr. Kuvvatov went into exile in Turkey, but continued to build support for Group 24.[26] After he called for his supporters to assemble on 10 October 2014 in a main Dushanbe square to demand free

[26] See Tajikistan News Agency, "Tajikistan sends official extradition request to UAE for Umarali Quvvatov", 9 January 2013. Available at https://news.tj/en/news/tajikistan/laworder/20130109/tajikistan-sends-official-extradition-request-uae-umarali-quvvatov.

elections, websites such as YouTube and Facebook were disabled throughout Tajikistan.[27] Group 24 was declared an extremist group and persons accused of association with the group became subject to investigation, potential criminal charges and detention. On 5 March 2015, after receiving several death threats, Mr. Kuvvatov was murdered in Turkey. The Prosecutor General's Office indicated to the Special Rapporteur that it had not opened an investigation to determine if the killing was connected to persons in Tajikistan. Another member of Group 24, Safarali Hasanov, was sentenced in May 2016 to five years in prison on charges of organizing the activity of an extremist group as a result of his participation in a meeting calling on Tajik labour migrants to demonstrate against the Government of Tajikistan.[28]

## C. Detention and intimidation of lawyers

49. During his visit, the Special Rapporteur learned of several cases in which lawyers defending dissenters or opposition figures were themselves intimidated and threatened. For instance, the cases of Buzurgmekhr Yorov and Nuriddin Mahkamov, two human rights lawyers involved in the trial of the Islamic Renaissance Party of Tajikistan leaders, raise serious concerns about the Government's commitment to due process and independent legal mechanisms. The charges against the lawyers included fraud, "arousing national, racial, local or religious hostility" and extremism. Mr. Yorov was arrested on 29 September 2015, shortly after he agreed to represent the Party members who had been arrested several days before. On 22 October 2015, Mr. Mahkamov, a lawyer who worked for the same law firm as Mr. Yorov, was also arrested after he sought to represent Mr. Yorov. Mr. Yorov's brother, Jamshed Yorov, was arrested between August and September 2016 on charges of "disclosing State secrets" after being accused of having publicized the secret sentence of the Party leaders. In October 2016, Mr. Yorov and Mr. Mahkamov were sentenced to 21 and 23 years in prison respectively.

50. During Buzurgmekhr Yorov's trial, he allegedly read aloud a Persian poem that made reference to "fools", triggering further charges against him of contempt of court and insulting a government official. On 15 March 2017, his sentence was extended by two years to 25 years after he was found guilty of those charges.

51. In January 2015, Shukhrat Kudratov, a prominent human rights lawyer and the deputy head of the Social Democratic Party, was sentenced to nine years in prison. In previous cases, Mr. Kudratov had represented the independent news agency Asia Plus and was defence counsel for Zayd Saidov, the detained leader of the New Tajikistan Party. Mr. Kudratov reported on irregularities in Mr. Saidov's trial and on violent threats made against him and other lawyers involved in Mr. Saidov's defence. Two other lawyers involved in Mr. Saidov's case were also reportedly intimidated: Fakhriddin Zokirov, who was arrested in 2014 and fined, and Ishok Tabarov.

52. The Special Rapporteur had the chance to meet with Mr. Tabarov during the visit. Mr. Tabarov was the only member of Mr. Saidov's legal team not facing criminal charges. However, his son Firuz Tabarov had been arrested on 3 July 2015, and had reportedly been tortured and forced to make a false confession for promoting anti-State propaganda. On 11 February 2016, Firuz Tabarov was sentenced to more than 13 years in prison for various crimes, including "extremism" and "facilitating mercenary fighters". Reports indicate little credible evidence to support the charges, which appear to be in response to his father's work. On 14 March 2016, Daler Tabarov, Ishok Tabarov's other son, was arrested on charges of failing to report a crime. He was sentenced to six months in prison on 2 June 2016. Ishok Tabarov, who throughout the time that pressure was being placed on his sons maintained that they were charged for political reasons and to persecute him, died as a result of a stroke just 10 days after Daler Tabarov was sentenced.

[27] See Radio Free Europe, "SMS services down in Tajikistan after protest calls", 10 October 2014. Available at www.rferl.org/a/tajikistan-sms-internet-group-24-quvatov-phone-message-blockage-dushanbe/26630390.html.

[28] See Tajikistan News Agency, "One more member of Group 24 jailed in Tajikistan", 5 May 2016. Available at https://news.tj/en/news/one-more-member-group-24-jailed-tajikistan.

53. According to a number of lawyers and activists with whom the Special Rapporteur met, the Bar Act, adopted in 2015, put further pressure on the independence of lawyers. The Act empowers the Ministry of Justice to act as a licensing body requiring all lawyers to renew their accreditation and go through a new examination process, which must be renewed every five years. It was reported that the test contained subjects unrelated to law, including political and historical questions. As a result of the implementation of the Act, reportedly only about 30 per cent of the lawyers who were practising before the Act was passed are still in practice.

# VII. Narrowing the space for activism and civil society organizations

54. All members of civil society with whom the Special Rapporteur met expressed grave concerns about the future of non-governmental activism in Tajikistan. They pointed first to a deteriorating legal framework. The 2014 law on public meetings, demonstrations and rallies imposes a number of restrictions that appear to be incompatible with the international standards on the right to peaceful assembly.[29] Article 10 of the law bans persons with a record of administrative offences (non-criminal infractions) under articles 106, 460, 479 and 480 of the Procedure Code on Administrative Offences, from organizing gatherings.[30] Article 12 of the law establishes that organizers must obtain permission 15 days prior to organizing a mass gathering. Additionally, articles 14 and 15 limit the time and place permitted for gatherings, restricting mobilizations in areas close to government buildings, historical and cultural monuments, national parks and cemeteries, and entirely banning protests at night.

55. Those legal developments and practices put significant pressure on civil society actors, narrowing the space for civil society organizations and peaceful demonstrations in the country. The exaggerated advance notice requirements and the limitations of protests to certain areas and hours of the day disproportionately limit the ability of individuals to express their dissent in coordination with others. The provisions make it almost impossible for protesters to lawfully achieve their purpose of making their voices heard by the authorities and the general public.

56. Furthermore, following the recommendations of the Financial Action Task Force, amendments to the Voluntary Associations Act entered into force in August 2015.[31] The amendments require NGOs to notify the Ministry of Justice of all funds received from international sources prior to using the funds. That could impede NGOs from continuing to function if they cannot access those funds as needed. The implementing regulations of 27 April 2016 and 9 June 2016 indicated that organizations must inform the Ministry of the source and nature of the funds and provide specific details of how and when they will be used. They must do so within 10 days of receipt of the funds. The Ministry of Justice can then verify the information and request inspections. That provides for Ministry access to a vast amount of the NGOs' activities, which could have a chilling effect on their freedom of expression.[32]

[29] See Central Asia-Caucasus Analyst, "Tajikistan's parliament imposes restrictions on demonstrators", 26 November 2016. Available at www.cacianalyst.org/publications/field-reports/item/13094-tajikistans-parliament-imposes-restrictions-on-demonstrators.html. See also www.osce.org/odihr/elections/tajikistan/158081?download=true.

[30] Those provisions concern hampering gatherings (art. 106), disorderly conduct (art. 460), disobeying the police (art. 479) and violating the rules on conducting gatherings (art. 480).

[31] The Russian version of the law is available at http://base.spinform.ru/show_doc.fwx?rgn=78602.

[32] See Civicus, "In 2016, respect for civic space declined dramatically in Tajikistan", 28 February 2017. Available at https://monitor.civicus.org/newsfeed/2017/02/28/worsening-conditions-independent-dissent-tajikistan/. See also OHCHR, "Press briefing notes on Tajikistan", 3 August 2015. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16288&LangID=E.

57. Certain NGOs that have disclosed their funding sources have been questioned or pressured by the Government in situations where those funding sources have ties to foreign organizations or movements. The Special Rapporteur's concerns about changes in the legal framework are heightened by the reported increase in other intrusive inspections into the work of numerous NGOs by authorities from multiple bodies, including the State Committee for National Security, the Tax Committee, the Ministry of Justice and the Prosecutor General's Office. Various interlocutors noted that official inspections had become more frequent and intrusive, generating a climate of fear that had a powerful chilling effect, particularly on human rights organizations.

58. Even before the adoption of the 2015 amendments, the work of NGOs was affected by official interference. For example, in 2013 the Association of Young Lawyers, Amparo, was dissolved by a court order after allegedly failing to comply with the auditing process of the Ministry of Justice. The Special Rapporteur's predecessor and other United Nations experts have previously expressed their serious concerns regarding the lack of transparency and clear procedural guidelines regarding the conduct of the audit that led to the dissolution of the NGO.[33]

# VIII. Limiting religious expression

59. Freedom of expression in the religious sphere is under serious threat. Government officials noted the relevance of article 26 of the Constitution, which guarantees religious freedom, but they asserted a need to limit certain religious activities. They argued that a number of religious manifestations had destabilizing effects on public order in Tajikistan or provided fertile ground for extremist ideology. Requiring religious organizations to register and giving the Government regulatory powers over religious activities is justified by the Government as a way to combat the threat of radicalization and extremism. Part of the government strategy in that regard is to control and monitor when, where and under what circumstances religious expression and religious education is permissible.

60. During the Special Rapporteur's visit, government officials specifically cited the threat of the Islamic State in Iraq and the Levant as a growing concern and justification for the increased restrictions on religious practices. While the Special Rapporteur is cognizant of the security situation that Tajikistan faces, he is especially concerned that the approaches being taken not only violate the rights to freedom of expression and freedom of religion, but also may contribute to further radicalization due to the progressive and arbitrary alienation of certain groups and their leaders.[34]

61. Government policy is implemented by the Committee for Religious Affairs and the Council of Ulema. The Committee for Religious Affairs is responsible for overseeing and implementing laws relating to religion, including registration of religious groups and oversight of mosques and churches. The Council of Ulema is a nominally independent body that guides the Tajik Muslim community and presents a State-approved interpretation of Islam. The Committee for Religious Affairs and the Council of Ulema have issued several regulations and religious orders that limit the space for Islamic expression. For example, the Committee for Religious Affairs regulates mosques in Tajikistan, and government-appointed imams are permitted to read only specific sermons prepared by the Council of Ulema.[35] Pursuant to article 11 of the 2009 Freedom of Conscience and Religious Associations Act, imams and imam-khatibs are elected "in coordination with" appropriate State bodies in charge of religious affairs. Article 20 of the 2009 law restricts the rights of Muslims to pray, allowing worship at only four locations: a mosque, a cemetery, at home or

[33] See A/HRC/22/67 and Corrs. 1 and 2, p. 91, case No. TJK 3/2012; and p. 147, case No. TJK 4/2012.

[34] See Radio Free Europe, "Tajikistan's deadly export", 12 March 2017. Available at www.rferl.org/a/tajikistan-deadly-export-islamic-state-suicide-bombers/28365044.html. See also Global Risk Insights, "Under the radar: Tajikistan on track to be the next Afghanistan", 19 March 2017. Available at http://globalriskinsights.com/2017/03/under-the-radar-tajikistan-on-track-to-be-the-next-afghanistan/.

[35] See United States Commission on International Religious Freedom, "Annual report 2017: Tajikistan". Available at www.uscirf.gov/sites/default/files/Tajikistan.2017.pdf.

at a holy shrine. A number of prayer spaces have also been forcibly shut down, as they were not officially recognized as mosques. In 2009, the Tajikistan Supreme Court declared the Salafi School of Islam an extremist group.[36] Any member of the Salafi School is thus subject to arrest or detention as a member of an extremist group under the Counter-Terrorism Act.[37]

62. Repression of religious activity also seems to have increased over the past two years. In 7 June 2016, seven men in southern Tajikistan were sentenced to imprisonment for being members of the Muslim Brotherhood, which was banned in Tajikistan in 2006 and declared a terrorist group.[38] Since the beginning of 2016, the courts have reportedly handed down prison sentences of up to 16 years to at least 55 men, many of whom were accused of participating in the activity and spreading the teachings of the Salafi movement.[39]

63. Women and children, moreover, face even further restriction. A 2004 ruling issued by the Council of Ulema prohibits women from praying in mosques.[40] Minors under the age of 18 are not permitted to enter mosques pursuant to article 8 of the 2011 Parental Responsibility Act. The Ministry of Education forbids women from wearing the hijab in schools and universities.

64. On 20 July 2016, the head of the Department for Religious Affairs in the Sughd province stated during a press conference that all five regional madrasas (schools offering religious education) in the province had been closed down, having been suspended from teaching students in June 2013 for failure to obtain the relevant licence from the Ministry of Education. According to officials, the Ministry of Education did not grant the licences for the madrasas to resume their functions because their rules did not meet requirements set by the Government for studying in madrasas under article 12 of the 2009 Freedom of Conscience and Religious Associations Act.

65. The Special Rapporteur received further allegations concerning the direct harassment of many religious men and women, including the forcible shaving of beards and removal of hijabs by law enforcement officials. On 26 May 2016, a man was reportedly sentenced for recording video of the Tajik police detaining two women for wearing the hijab. He received a sentence of one year in jail after being charged with "provocation of enmity based on nationalism, regionalism and religion" for posting the video online.[41]

66. In May 2016, five imams were arrested for allegedly promoting extremist ideas and recruiting young people from extremist groups abroad. The arrests came after a tip from three other clerics arrested in April, and between January and April of 2016 the Government arrested 15 Muslim clerics on similar charges.

67. The practices of other religions have also been restricted. Because the Freedom of Conscience and Religious Associations Act requires religious groups to register with the State Committee for Religious Affairs, the State has control over which religions can officially organize in the country. Jehovah's Witnesses, for example, expressed their concern over the cancelation of their registration in a submission to the universal periodic review in 2016.[42] The decision to cancel legal registration in turn exposes members of

[36] See Forum 18, "Tajikistan: Islamic school of thought banned", 23 January 2009. Available at www.forum18.org/archive.php?article_id=1243.

[37] See Forum 18, "Tajikistan: imprisonments 'designed to scare the population'", 19 May 2016. Available at www.forum18.org/archive.php?article_id=2180.

[38] See Eurasianet, "Tajikistan: prayer leaders detained in latest anti-Islam offensive", 6 August 2016. Available at www.eurasianet.org/node/78141.

[39] See United States Commission on International Religious Freedom, "Annual report 2017: Tajikistan". Available at www.uscirf.gov/sites/default/files/Tajikistan.2017.pdf.

[40] See Radio Free Europe, "Tajikistan: top Islamic body bans women from attending mosque services", 20 October 2004. Available at www.rferl.org/a/1055440.html.

[41] See Global Voices, "Russian citizen imprisoned for filming police detaining hijab-wearing women in Tajikistan", 30 May 2016. Available at https://globalvoices.org/2016/05/30/russian-citizen-imprisoned-for-filming-police-detaining-hijab-wearing-women-in-tajikistan/.

[42] See European Association of Jehovah's Christian Witnesses, Submission to the universal periodic review. Available at www.upr-info.org/sites/default/files/document/tajikistan/session_25_-_may_2016/eajcw_european_association_of_jehovahs_christian_witnesses_upr25_tjk_e_main.pdf.

unregistered religious groups to detention and harassment for engaging in religious activities. Participants in a legally sanctioned Holi celebration in May 2016 were reportedly detained because, owing to their painted faces, they were "disturbing the public order".[43] Moreover, the offence of producing, distributing, importing or exporting religious literature and items of a religious nature that have not previously passed through the compulsory State religious channels is punishable under article 474-1 of the Procedure Code on Administrative Offences.

# IX. Conclusion and recommendations

68. **Tajikistan faces a serious and, in some respects, unusual security environment. It shares a border with Afghanistan that is approximately 1,300 kilometres long, which is often porous and difficult to guard. Recently, regional concerns with extremism have increased with the emergence of the Islamic State in Iraq and the Levant. Yet the disproportionate emphasis placed by government officials on the often arbitrary and violent repression of critical voices in political and religious movements risks worsening the existing risks. The repression of freedom of expression and other rights identified in the present report may be undermining the very security and public order goals the Government purports to be pursuing.**

69. **Tajikistan suffered a civil war at the very moment of its independence and exit from Soviet domination, contributing to the creation of a political system in which its leading members prize stability over any other value, even over human rights and economic development. The Government established through the peace accords, which included the partial acceptance of the political participation of former opposition sides from the civil war, played an important role in the protection of space for political opposition. That system has frayed, particularly since 2012, as the Government has accumulated ever more authority.**

70. **The Special Rapporteur urges the Government to reconsider its approach to security and public order. Its current approach focuses on repression of the independent media, access to information online, space for civil society, and the capacity of democratic opposition to voice opinions, to name some leading human rights concerns. The following specific recommendations are offered in a spirit of engagement and cooperation, and the Special Rapporteur emphasizes his genuine eagerness to work with the Government to improve the situation of freedom of opinion and expression in the country. But the overall point is that Tajikistan has entered a phase in which law and policy are working against fundamental freedoms and thus creating major and growing pockets of fear and alienation while at the same time offering little by way of economic well-being.**

71. **In offering the following recommendations to the Government of Tajikistan, the Special Rapporteur also strongly encourages the Human Rights Council and Member States to take appropriate steps to assist Tajikistan in meeting its obligations under human rights law.**

## Reversing restrictions on political opponents and other critical voices in society

72. **The Special Rapporteur recalls the fundamental importance of ensuring that every restriction imposed on the right to freedom of opinion and expression is fully compatible with article 19 (3) of the International Covenant on Civil and Political Rights. In that regard, he is particularly worried about the broad use of accusations of "terrorism" and "extremism" in the adoption of a number of repressive measures, including the detention and sentencing of multiple political opponents, lawyers and other critical voices in the country. The Counter-Terrorism Act should be revised in**

[43] See International Partnership for Human Rights, "Declining civic space in Tajikistan", 3 March 2017. Available at http://iphronline.org/declining-civic-space-tajikistan-20170303.html.

**order to provide more clear and precise legal definitions of, and clarify what evidence is sufficient to prove, what would constitute "extremism" and "terrorism", with a view to avoiding arbitrary application and leaving broad discretion to those charged with the application of the legislation.**

73. **The Special Rapporteur urges Tajikistan to release all political activists, lawyers and journalists allegedly detained on arbitrary grounds. The constitutional banning of parties established by religious groups is incompatible with international norms and should also be revoked as a step towards fostering a culture of political plurality. The recent trials of Islamic Renaissance Party of Tajikistan members and their lawyers, particularly in the light of their secrecy, did not seem to meet fair trial standards and should be annulled.**

74. **The recent increase in repression of critical voices in the country is even more worrying considering the allegations about the lack of independence of judges and lawyers. The harassment and arbitrary detention of lawyers must be ended and thoroughly investigated. Without an independent judiciary, all possible legal and institutional progress regarding the protection of freedom of expression and other freedoms is seriously compromised. In that regard, the Special Rapporteur urges Tajikistan to accept a visit from the Special Rapporteur on the independence of judges and lawyers.**

## Reviewing legislation and revoking all arbitrary restrictions to the freedom of the media and journalists

75. **The Special Rapporteur calls upon Tajikistan to bring its national legislation into accordance with international standards by fully decriminalizing defamation and repealing articles 137, 137 (1) and 330 of the Criminal Code. Judicial procedures defining the scope of the application of civil defamation cases and the fines to be paid must also be carefully revised.**

76. **Registration requirements for media groups and the accreditation of journalists must be completely protected from governmental interference. In line with international standards, Tajikistan must ensure that legislative and administrative frameworks for the regulation of the mass media are consistent with the provisions of article 19 (3) of the International Covenant on Civil and Political Rights. The criteria for the application of regulations should be reasonable and objective, clear, transparent and non-discriminatory.**

77. **The Special Rapporteur urges the Government to ensure that journalists' accreditations are not arbitrarily revoked. In that regard, he recalls that State systems of registration or licensing of journalists are incompatible with article 19 (3) of the Covenant.**

78. **The alleged harassment of journalists must be investigated and strongly condemned by State officials. Without protection from violence and harassment by judicial authorities, it is impossible for journalists to perform their central role in providing public access to information in the country.**

## Ensuring free and secure access to the Internet and other sources of communication and information

79. **The Special Rapporteur urges Tajikistan to revise its current regulations and policies for telecommunications and the Internet, paying particular attention to the recurrent allegations regarding the blocking and monitoring of communications and the blocking of websites. In particular, the Special Rapporteur calls upon Tajikistan to dismantle its Single Communications Switching Centre, given the clearly disproportional and uncontrolled governmental access to communications traffic and data enabled by the system. The Special Rapporteur also calls for full clarification on**

**the official positions regarding the alleged blocking of communications during moments of political relevance and the blocking of certain websites in the country.**

80. **Private sector representatives and civil society must be consulted and included in the promotion of a new regulatory system. Ensuring a safe and reliable communication infrastructure is not only an obligation in accordance with human rights norms, but also a crucial requirement for sustainable social and economic development. In the same spirit, the Special Rapporteur recalls Human Rights Council resolution 32/13, in which the Council affirms that the same rights that people have offline must also be protected online, particularly the right to freedom of expression, condemns unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and calls upon all States to refrain from and cease such measures.**

## Enabling broad space for civil society

81. **The Special Rapporteur calls upon the Government to revise the recent amendments to the Voluntary Associations Act and the 2014 law on public meetings, demonstrations and rallies in order to ensure that they do not impose restrictions on the right to peaceful assembly and freedom of association, which are incompatible with international standards.**

82. **In that regard, the Special Rapporteur recalls that registration requirements for NGOs should be clear, simple, transparent, and designed to foster an environment conducive to the establishment of a vibrant civil society. The Special Rapporteur underlines his concerns regarding the use of recurrent inspections of civil society organizations on administrative and fiscal grounds and the possible use of such inquiries as an intimidatory tool.**

83. **The Special Rapporteur urges the Government, as part of its strategy to prevent violent extremism and religious radicalization, to strengthen civil society, including strengthening its cooperation with human rights defenders and civil society institutions.**

## Undoing the limitations on religious expression

84. **The Special Rapporteur is deeply concerned by the allegations of undue interference by government authorities in manifestations of religious expression and education. He is particularly disturbed by the allegations of repression of individuals based on their apparent adherence to certain religious groups.**

85. **In that regard, the Special Rapporteur calls upon the Government to recognize, both in law and in practice, the expression of religious freedom as an individual right, subject only to those restrictions that are permitted under international human rights law. The Special Rapporteur urges the authorities to revise counter-terrorism legislation and its implementation to prevent its application to the legitimate exercise of freedom of religion as a private or collective matter. The Special Rapporteur equally urges the authorities to bring the 2009 Freedom of Conscience and Religious Associations Act and the Parental Responsibility Act into line with the standards of international human rights law.**