



## 人权理事会

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#### 议程项目3

促进和保护所有人权——公民权利、政治权利、  
经济、社会及文化权利，包括发展权

## 对塔吉克斯坦的访问

### 人权维护者处境特别报告员玛丽·劳勒的报告\*

#### 概要

人权维护者处境特别报告员玛丽·劳勒于2022年11月28日至12月9日访问了塔吉克斯坦。此次访问的宗旨是评估人权维护者，包括非政府组织成员、律师、记者和民间社会其他成员在该国的处境。特别报告员在报告中分析了人权维护者在该国开展活动的背景，包括考虑了相关法律框架以及人权维护者的工作环境是否安全和有利。

\* 本报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。



## 附件

# 人权维护者处境特别报告员玛丽·劳勒关于对塔吉克斯坦的访问的报告

## I. Introduction

1. Following the acceptance by the Government of Tajikistan of her visit request, the Special Rapporteur on the situation of human rights defenders conducted an official visit to the country, from 28 November to 9 December 2022, to assess the situation of human rights defenders and civil society and to identify the progress made and the remaining challenges in relation to the protection of human rights defenders and the environment in which they operate.
2. The Special Rapporteur would like to express her gratitude to the Government for accepting her visit request and for the cooperation extended to her during the visit. During her visit, the Special Rapporteur met government officials from various ministries and offices, including the Ministry for Foreign Affairs, the Office of the President, the Ministry of Justice, Ministry for Women and Family Affairs and the Ministry of the Interior. She also met representatives of the Parliament, the Supreme Court, the State Committee for National Security and the Ombudsman.
3. The Special Rapporteur was also able to visit some human rights defenders who are currently in pretrial detention. Additionally, she met members of the United Nations country team, members of the diplomatic community based in Dushanbe and representatives of regional and international human rights organizations.
4. The Special Rapporteur met many enthusiastic and brave human rights defenders, including members of non-governmental organizations (NGOs), human rights lawyers, journalists, bloggers and members of grass-roots movements. She commends their dedication and persistence and the steadfast work aimed at creating a just and fair society, grounded in the rule of law.
5. The Special Rapporteur travelled to Khujand and met human rights defenders working in the Sughd region there, as well as the local representative of the Ombudsman. The Special Rapporteur regrets however, that despite her request, she was not able to visit the Kūhistoni Badakhshon Autonomous Province.
6. The Special Rapporteur regrets that despite the acceptance of the country visit, there were certain difficulties in finalizing the programme for the visit and some requested meetings could not take place.

## II. International and national legal frameworks

### A. International legal framework

7. Tajikistan is party to most major international human rights instruments: the International Covenant on Civil and Political Rights and the first Optional Protocol thereto, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Optional Protocol on the involvement of children in armed conflict, the Optional Protocol on the sale of children, child prostitution and child pornography, the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Convention on the

Rights of Persons with Disabilities has recently been signed but not yet ratified. Tajikistan is also party to the Convention relating to the Status of Refugees and the 1967 Protocol thereto.

8. Tajikistan has ratified all nine fundamental conventions of the International Labour Organization that cover four categories of principles and rights: freedom of association and the right to collective bargaining; the elimination of forced labour; the abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

9. Tajikistan is a participating State in the Organization for Security and Cooperation in Europe (OSCE) and has a Partnership and Cooperation Agreement with the European Union, in force since 2010. At the beginning of 2023, the European Union and Tajikistan started negotiations on an enhanced partnership and cooperation agreement.

10. At the time of the visit, Tajikistan had been reviewed three times under the universal periodic review mechanism of the Human Rights Council – in 2011, 2016 and 2021 – with the fourth review scheduled to take place in 2026. Several recommendations directly concerning human rights defenders were addressed to the State in its 2021 review, and it accepted several of them.<sup>1</sup>

11. A number of recommendations under the universal periodic review mechanism were aimed at enhancing cooperation with the United Nations human rights mechanisms and extending a standing invitation to special procedure mandate holders. While the Government has not yet extended a standing invitation, the Special Rapporteur wishes to acknowledge the openness of the authorities in accommodating her visit request and sharing their experience.

## **B. National legal framework**

### **1. Constitutional national framework**

12. The Constitution of the Republic of Tajikistan was adopted on 6 November 1994 and was amended most recently in 2016. In accordance with article 10 thereof, the Constitution is the supreme legal instrument in the country. In accordance with the same article, international treaties ratified by Tajikistan are a constituent part of the country's legal system.

13. All law enforcement agencies report directly to the President and share law enforcement responsibilities, which often overlap. The State Committee for National Security is responsible for intelligence gathering, controls the Border Service and investigates cases linked to alleged extremist political or religious activity, trafficking in persons and politically sensitive cases. Civilian oversight and control of security forces is only partially maintained.

14. The Constitution recognizes the right to life and the honour and dignity of persons. It states that human rights and freedoms are recognized, observed and protected by the State. The Constitution provides for a multiparty political system, but the Government has historically obstructed political pluralism.

15. The Constitution guarantees respect for a number of fundamental rights that are important for the situation and work of human rights defenders. These include the rights to freedom of association (arts. 8, 28 and 29), to life (art. 18), and to fair trial and due process (arts. 17, 19, 20, 21) and freedom of expression (art. 30). However, currently there is currently

<sup>1</sup> See [A/HRC/49/12](#) and [A/HRC/49/12/Add.1](#). The recommendations included strengthening the legal framework to ensure access to information and the exercise of freedom of expression and association, particularly by civil society and human rights defenders; taking measures to foster a safe, respectful and enabling environment for civil society and human rights defenders, especially women defenders, free from persecution, intimidation and harassment; refraining from imposing restrictions on civil society and human rights defenders; duly addressing allegations of systemic persecution against opposition figures, journalists, lawyers and human rights defenders; eliminating from legislation all provisions that undermine freedom of expression and protection of journalists, media workers and human rights defenders against harassment and intimidation; guaranteeing that human rights defenders can freely exercise their activities, without risk of reprisals; and ending the transnational repression and forced repatriation of human rights defenders and members of civil society.

no law specifically aimed at the protection of human rights defenders and the promotion of their legitimate human rights work.

16. In 2019 Tajikistan adopted a national action plan for the implementation of the recommendations that had been made by in the context of the universal periodic review. Extensive work had been done to bring national legislation and practice into line with the country's international obligations. However, the country visit revealed that, unfortunately, the implementation of the national action plan on human rights has been slow, and that there has been a lack of genuine, meaningful consultation with and full involvement of members of civil society. Genuine commitment to human rights should be demonstrated in specific, tangible steps towards implementation.

17. One step forward under the national action plan was the adoption, in 2022, of the Law on Equality and Elimination of All Forms of Discrimination. The Law was developed in response to recommendations, made in the context of the universal periodic review, for the Government to develop a separate law on the comprehensive fight against discrimination. In an analysis of the law, the International Center for Not-for-Profit Law observes that the law prohibits both the Government and private citizens from discriminating against individuals on enumerated grounds. The Law also gives public organizations the right to represent victims and work with the Government to monitor the Law. The Center reports that Tajikistan is in the process of harmonizing legislation with the Law and conducting awareness-raising and other activities to implement the Law.<sup>2</sup> However, it is a missed opportunity that the Law does not include provisions for discrimination based on gender and sexual orientation. Also, the Special Rapporteur was disappointed to hear that the Government did not include members of civil society organizations in the working group that developed the Law.

18. Tajikistan also adopted a national development strategy up to 2030, in which the rule of law, access to justice and protection of rights are described as important priority issues.<sup>3</sup> The country continued to successfully implement the system of free legal assistance for the most vulnerable population groups.<sup>4</sup>

19. On the basis of the World Programme for Human Rights Education, a draft national programme for human rights education 2022–2026 was developed. The Special Rapporteur is of the view that information about the role and activities of human rights defenders should always form part of the human rights education programme.

## **2. Laws and policies concerning freedom of association and assembly**

20. Many human rights defenders and civil society organizations have reported that they are facing increased administrative burdens, including inspections, that may be particularly crippling for smaller, underresourced and grass-roots organizations.

21. Amendments to the Law on Public Associations that were adopted in 2015 require all public associations to report the receipt of grants and other funding from foreign sources to the Ministry of Foreign Affairs. The reporting requirement is implemented through a notification procedure, using a government-approved reporting form. This places an additional administrative burden on NGOs and could potentially be used to accuse them of funding extremism. It may also obstruct the access of NGOs to funding and may lead to a complete ceasing of their activities.

22. The Law further stipulates that, in accordance with the Law on Combating Money Laundering and the Financing of Terrorism, the registering body should report to the financial intelligence agency (the national bank) if there are sufficient grounds for suspicion that a public organization is a cover for the collection of funds from terrorist or extremist organizations or acts as a conduit for the financing of terrorism or extremism, or even in cases of doubt. However, the wording “in case of doubt” is vague and, given the current political climate in Tajikistan, may be used to limit the activities of organizations.

<sup>2</sup> See <https://www.icnl.org/resources/civic-freedom-monitor/tajikistan>.

<sup>3</sup> Available at [https://www.undp.org/sites/g/files/zskgke326/files/migration/tj/NDS\\_2030\\_en.pdf](https://www.undp.org/sites/g/files/zskgke326/files/migration/tj/NDS_2030_en.pdf).

<sup>4</sup> A/HRC/49/12.

23. The State Committee for National Security or the Ministry of Justice can instruct the tax authority to carry out an investigation of a civil society organization, with the unstated aim of finding irregularities that may provide sufficient grounds for forcing the closure of the organization. These inspections can be carried out by the tax committee, the national security services and other bodies, including the fire department, the labour inspectorate or the environmental protection authority, among others. In some cases, the inspections have resulted in warnings and sanctions, and some NGOs have been forced to close. These inspections are time-consuming and burdensome and create a climate of insecurity. The NGOs are forced to spend a significant amount of time preparing for the inspections and dealing with their consequences, instead of focusing on their core activities.

24. Against this backdrop, it is felt that there is no real legal protection for associations, as the judiciary is not able to provide for independent oversight of the executive branch.

25. Largely due to this strained environment, many women's rights organizations do not even consider themselves to be human rights defenders, as the term carries a negative connotation in the country.

26. Reportedly, 85 per cent of NGOs are registered with the Ministry of Justice. Some other NGOs are registered locally. The Ministry of Justice exercises complete control over NGOs, including through burdensome reporting requirements. NGOs are required to submit three types of reports: an annual report, a notification on receiving foreign funding and a report on expenditure.

### 3. Laws and policies concerning freedom of expression and countering terrorism

27. Despite constitutional protections, a series of laws and amendments adopted over the past few years are cause for significant concern for the situation of human rights defenders in the country. A number of human rights defenders and human rights lawyers have faced terrorism and national security-related charges, or slander and insult charges. The authorities in Tajikistan have prioritized the protection of stability and traditional values over respect for fundamental human rights in all spheres of public life. They invoke national security and the fight against terrorism to justify increasingly harsh restrictions on freedoms of expression, assembly, association and the media, and to drastically reduce access to information. As such, the above-mentioned laws and amendments affect the whole population of Tajikistan, but are particularly restrictive for human rights defenders, lawyers, independent media workers and anyone whose opinion differs from that of the Government.

28. The exercise of freedom of expression is referred to in 14 recommendations accepted by Tajikistan during its most recent universal periodic review.<sup>5</sup>

29. The Special Rapporteur is concerned about article 137 of the Criminal Code, on public insults and slander against the President of Tajikistan, which is punishable by a fine of 100 to 500 times the minimum monthly wage, or correctional labour for up to one year. It also provides that the same actions committed through the press or other means of mass media are punishable by correctional labour for up to two years, or imprisonment for a period of two to five years.<sup>6</sup> The Human Rights Committee expressed a similar concern when it reviewed the third periodic report of Tajikistan on its implementation of the International Covenant on Civil and Political Rights in July 2019.<sup>7</sup>

30. Article 180 of the Criminal Code stipulates that deliberately false information about the planning of an act of terrorism is punishable by up to two years of correctional labour or imprisonment. This provision is particularly problematic as it is overly broad and vague, which carries the risk of being used in retaliation for legitimate human rights activities.

31. In November 2015, the parliament amended the Law on Combating Terrorism, legalizing the blocking of the Internet and phone system during "counter-terrorism operations" in the country.

<sup>5</sup> See [A/HRC/49/12](#) and [A/HRC/49/12/Add.1](#).

<sup>6</sup> Available from

[https://legislationline.org/sites/default/files/documents/f3/Tajikistan\\_CC\\_1998\\_am2020\\_en.pdf](https://legislationline.org/sites/default/files/documents/f3/Tajikistan_CC_1998_am2020_en.pdf).

<sup>7</sup> See [CCPR/C/TJK/CO/3](#).

32. In August 2016, the Government issued a five-year decree giving it the right to “regulate and control” the content of all television and radio networks through the State broadcasting committee. Independent media outlets and individual journalists faced intimidation and harassment by police and the security services for covering politically sensitive issues, which includes reporting on human rights issues and instances of corruption, including by members of the judiciary and the executive branch. The decree has therefore had a significant chilling effect on the work of civil society and independent journalists.

33. In July 2017, the parliament passed legislative amendments allowing the Government’s security services to monitor and keep records of online activities and mobile messages. Surveillance, fines and detention would be applied to citizens who visited websites considered as “undesirable”. There is no definition of “undesirable” in the legislation.<sup>8</sup> A number of human rights defenders and bloggers have expressed their concerns to the Special Rapporteur about these amendments, as they have been used as a basis for informal and formal questioning and indictments in the context of raising legitimate human rights concerns.

34. The Law on Countering Extremism was signed by the President in January 2020. This new legislation granted the authorities powers to restrict the rights to freedom of expression and peaceful assembly during times of public emergency. The authorities used these powers to block access to Internet and mobile communications and impose censorship during police and counter-terrorism operations, in violation of international standards. As human rights defenders explained to the Special Rapporteur, this makes it very difficult to independently verify allegations of human rights violations and has contributed to a climate of fear and impunity.<sup>9</sup> A number of NGOs and human rights defenders have restricted their activities in the light of criminal charges brought against other activists. Many of them told the Special Rapporteur that they were now less active, or had started focusing mainly on issues that were deemed less controversial. NGOs also generally refrain from working on violations of religious freedoms, as defending religious freedoms has been linked to the promotion of terrorism and extremism.

35. In the context of the coronavirus disease (COVID-19) pandemic, the Criminal Code and the Code of Administrative Offences was amended, in June 2020. The amendments included the introduction of article 374 (1), proscribing, in a vague manner, the dissemination of false information. While those amendments were aimed at responding to a specific global crisis, civil society and media actors raised concerns over the risk of possible abuse of the law to target independent media and dissenting voices.<sup>10</sup> The new provisions prohibit incitement to social, racial, national, regional and religious enmity or discord and increased the sanctions. In the Criminal Code, the offence is punishable by imprisonment and the administrative sanctions provide for fines or administrative detention. The sanctions exist alongside each other. The wording of the new provisions is broad and leaves room for misuse and heavy combined sanctions.<sup>11</sup>

36. On 23 December 2021, Tajikistan adopted the Law on Combating Terrorism, replacing the 1999 counter-terrorism law. The law defines basic counter-terrorism principles and establishes the country’s legal and organizational framework for counter-terrorism efforts. A definition of “terrorism” is also provided in the Criminal Code (art. 179).

37. As observed in a joint letter sent by special procedure mandate holders, the definitions of “terrorist actions”, “terrorist crimes” and “terrorist organizations” are overbroad and ambiguous. For example, the definitions use vague phrases such as “the creation of a danger of harm” to life, health or property, “dissemination of threats in any form and by any means”, “significant damage to property”, “socially dangerous consequences” and the “destruction (damaging) of or threat to destroy (damage) property and other material objects of individuals

<sup>8</sup> See [https://www.upr-info.org/sites/default/files/documents/2021-10/hrw\\_upr39\\_tjk\\_e\\_main.pdf](https://www.upr-info.org/sites/default/files/documents/2021-10/hrw_upr39_tjk_e_main.pdf).

<sup>9</sup> See <https://www.amnesty.org/en/documents/eur60/4153/2021/en/>.

<sup>10</sup> See [https://www.upr-info.org/sites/default/files/documents/2021-10/article\\_19\\_upr39\\_tjk\\_e\\_main.pdf](https://www.upr-info.org/sites/default/files/documents/2021-10/article_19_upr39_tjk_e_main.pdf).

<sup>11</sup> See <https://article19.org/wp-content/uploads/2022/12/TajikistanReport-Nov-2022.pdf>.

and legal entities”.<sup>12</sup> The adoption of overly broad definitions of terrorism carries the potential for the deliberate misuse of the term and poses the risk that, where such laws and measures restrict the enjoyment of rights and freedoms, they will offend the principles of necessity and proportionality that govern the permissibility of any restriction on human rights.<sup>13</sup> The mandate holders stated that criminal offences must thus be set out in precise and unambiguous language that narrowly defined the punishable offence. They recalled that the failure to use precise and unambiguous language in relation to terrorism offences fundamentally affected the protection of a range of human rights and freedoms.<sup>14</sup>

38. The authorities continued to make use of articles of the Criminal Code to bring charges of “incitement to discord” and “terrorism and extremism” against journalists and bloggers who had published critical material on politically sensitive topics.

39. Independent media have faced significant pressure from the Government and media workers must navigate an environment in which criminal charges may be brought against them at any time. Journalists have been facing harassment and intimidation by government officials, which has resulted in journalists exercising self-censorship in order to avoid retribution. A combination of the legislative environment and the intimidation of journalists and bloggers significantly limited the range of issues and topics that are considered safe to report on. For example, bloggers reporting on torture in prisons or about corruption cases in the housing and construction industry have been arrested and are facing criminal charges.

### III. Situation of human rights defenders

#### A. General context

40. Overall, there is a limited understanding of the concept of human rights defenders in Tajikistan. Being considered a human rights defender often carries a negative connotation, and some members of civil society even avoid being referred to as defenders. NGOs and human rights defenders are generally not able to operate freely in Tajikistan.

41. Following the independence of the country, the civil society sector was developing dynamically and engaged actively on a broad range of issues, including in the areas of humanitarian relief, legal aid, human rights advocacy and community mobilization. However, since 2008, the environment for civil society activities has been deteriorating gradually and steadily. Currently there are virtually no civil society organizations in the country openly working in the areas of democratization, elections, rule of law and the monitoring of civil and political rights.

42. Another turning point for civil society in general was the dissolution of the Islamic Renaissance Party in 2015. Since then, lawyers, journalists and human rights defenders, namely those who had defended party members who had received long prison sentences and those who had raised concerns about the lack of fairness of the trials or prison conditions, have come under significant pressure from government authorities and in a number of cases have faced criminal charges themselves.

43. From the discussions the Special Rapporteur held with human rights defenders and members of civil society organizations, it has become apparent that human rights defenders largely refrain from working on cases related to individuals associated with the political opposition. If they do take on such cases, they face serious pressure and are often criminalized. The same is true for cases related to violations of religious freedoms, since defending religious freedoms has often been linked by the government to “extremist” or “terrorist” activities.

44. Also often considered as taboo are areas related to the human rights of sexual minorities, including lesbian, gay, bisexual, transgender and intersex persons, and of sex

<sup>12</sup> See communication TJK 5/2022, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27787>.

<sup>13</sup> Ibid. See also A/HRC/16/51, para. 26.

<sup>14</sup> See communication TJK 5/2022.



workers; human rights activities in those areas can be significantly constrained. Due to risks, such activities are carried out mainly under the guise of other less controversial umbrella activities, such as those on women's rights or artistic activities, and are invisible to the general public. Civil society organizations working on these issues are often criticized by authorities and labelled as "spreading Western values" or "undermining traditional values and morals".

45. Working in the areas of political rights, torture, electoral issues, corruption, freedom of religion or lesbian, gay, bisexual and transgender rights remained sensitive after the COVID-19 pandemic and has often led to harassment of activists.

## **B. Human rights defenders at risk**

### **1. Defenders from or working on issues related to Kūhistoni Badakhshon Autonomous Province**

46. In November 2021, the killing of a Pamiri man by security forces sparked widespread protests in Kūhistoni Badakhshon Autonomous Province. This has negatively affected the overall situation of freedom of expression, freedom of association and the right to peaceful assembly in the country, and in particular in that Province. Authorities have repeatedly cited national security, terrorism and violent extremism threats as justification for the severe restrictions on civic freedoms. Given that this region is difficult to access, gathering first-hand information on what is happening on the ground is challenging. Human rights defenders there thus play a key role in monitoring and protecting human rights and denouncing any violations.

47. In March 2022, seven special rapporteurs jointly shared their concerns regarding the use of lethal and excessive force against protesters in Kūhistoni Badakhshon Autonomous Province and the subsequent shutdown of mobile Internet services and threats and harassment of members of the Pamiri minority.<sup>15</sup>

48. The Special Rapporteur could not visit the Autonomous Province during her country visit because the authorities denied her request. However, the 10-day visit still shed light on the fragile and dangerous situation of human rights defenders from this region or working on issues related to it. Human rights defenders are being pressured by countless visits, questions and inspections from authorities. Civil society organizations working on issues such as freedom of expression and freedom from torture have faced increasing targeting by State authorities. In numerous cases, NGO representatives were summoned for interrogation and, in certain cases, their phones and laptops were seized for inspections without court-sanctioned warrants. Human rights defenders and lawyers working on cases related to the region and to individuals associated with the political opposition are often labelled as "extremists" and face severe pressure.

49. The Government has carried out several so-called special military operations in various regions of the country, including Kūhistoni Badakhshon Autonomous Province, resulting in significant human rights violations. When NGOs monitor and report on the violations committed during these "special military operations", they are faced with inspections.

50. Ulfathonim Mamadshoeva is a civil society representative of the Pamiri minority in Kūhistoni Badakhshon Autonomous Province, a journalist and a human rights defender. She founded and in the past led the local NGO Nomus va Insof, which was focused on children's and women's rights. On 18 May 2022, Ms. Mamadshoeva was arrested by agents from the State Committee for National Security and the Prosecutor General's Office; no arrest warrant was produced. Her apartment in Dushanbe was searched, and her laptop and mobile phone were reportedly seized. On 19 May 2022, Ms. Mamadshoeva was charged with publicly calling for violent change of the constitutional order (article 307 of the Criminal Code). Her case was reportedly classified, and her lawyer was placed under a non-disclosure order.

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<sup>15</sup> See communication TJK 1/2022, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27142>.



Ms. Mamadshoeva was held in the Dushanbe pretrial detention centre of the State Committee for National Security.<sup>16</sup> She has had limited access to her lawyer throughout her detention. She was reportedly held in isolation for an unspecified period, suffered extreme mental stress and had to undergo mental health treatment.

51. The Special Rapporteur repeatedly requested permission to visit Ms. Mamadshoeva but was refused by the authorities.

52. During the last day of the country visit, on 9 December 2022, it was reported that earlier that week the Supreme Court of Tajikistan had allegedly sentenced Ms. Mamadshoeva, aged 65, to 21 years in prison. The trial was reportedly held behind closed doors in the Dushanbe pretrial detention centre of the State Committee for National Security. According to a statement released by the Prosecutor General's Office on 26 January 2023, the Supreme Court tried Ms. Mamadshoeva and found her guilty of the following crimes: establishment and involvement in a criminal association, murder and attempted murder, terrorism, financing for illegal possession and transfer of ammunition and firearms to others, treason against the State, violent capture of State power or public call for violent change of the constitutional structure of Tajikistan, disruption of the political and social order, public calls for extremist activities (extremism), and the establishment of extremist organizations.

53. Manuchekhr Kholiknazarov is a lawyer and human rights defender. He was a leader of the Pamir Lawyers' Association and a member of the Civil Society Coalition against Torture and Impunity in Tajikistan and Commission 44, a group of human rights defenders and activists investigating human rights violations in Kūhistoni Badakhshon Autonomous Province. He was also a member of a joint investigation group led by the Prosecutor General's Office.<sup>17</sup>

54. On 28 May 2022, Mr. Kholiknazarov was among up to 13 members of Commission 44 who were arrested and interrogated. The Prosecutor's Office of Kūhistoni Badakhshon Autonomous Province questioned him for allegedly "receiving money from the banned National Alliance of Tajikistan". He was taken into custody in a pretrial detention centre of the Ministry of the Interior. On 6 June 2022, Mr. Kholiknazarov was charged with participation in a criminal association (article 187 (2) of the Criminal Code). He was moved to the Dushanbe pretrial detention centre of the State Committee for National Security. On 9 December 2022, it reportedly became known that the Supreme Court had allegedly sentenced Mr. Kholiknazarov to 15 years in prison. The trial was reportedly held behind closed doors in a pretrial detention centre, and he did not have access to lawyers and the evidence used against him. After the verdict, Mr. Kholiknazarov was reportedly transferred to the detention centre of the Ministry of the Interior. The exact charges on which he was sentenced were unclear. According to a statement released by the Prosecutor General's Office on 26 January 2023, the Supreme Court tried Mr. Kholiknazarov and found him guilty of establishing a criminal association and an extremist organization. The statement contained no further details about the charges. According to the statement, the trial was closed, but a lawyer participated, and the cumulative sentence was 16 years of imprisonment.<sup>18</sup>

55. Faromuz Irgashov is a human rights lawyer, a member of the Pamir Lawyers' Association and a former member of the Kūhistoni Badakhshon Autonomous Province local parliament. He was also an unregistered candidate for the 2020 presidential election in Tajikistan. As a lawyer, he was engaged in the defence of Pamiri minority leaders in various cases. He represented the Khorog community's policing partnership team in the 2016-2020 police reform programme, through which he mediated to prevent local conflicts and

<sup>16</sup> See communication TJK 2/2022, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27423>.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid. See also communication TJK 1/2023, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28026>.

advocated for the human rights of the local population. He was also a leading member of Commission 44.<sup>19</sup>

56. On 28 May 2022, Mr. Irgashov was arrested, allegedly after he went to the Prosecutor's Office of Kūhisoni Badakhshon Autonomous Province to inquire about the summoned and interrogated members of Commission 44. There was allegedly no warrant for his arrest. On 6 June 2022, Mr. Irgashov was charged with participation in a criminal association (article 187 (2) of the Criminal Code), public calls for violent change of the constitutional order of Tajikistan (article 307 (2) of the Criminal Code), homicide (article 104 of the Criminal Code) and terrorism (article 179 of the Criminal Code).<sup>20</sup> On 9 December 2022, it was reported that the Supreme Court of Tajikistan had sentenced Mr. Irgashov to 30 years of imprisonment. According to the Prosecutor General's Office statement released on 26 January 2023, the Supreme Court tried Mr. Irgashov and found him guilty of the following crimes: establishment of a criminal association, attempted murder, terrorism and organization of extremist activities. Other sources have reported that he was allegedly found guilty of receiving illegal financial support from abroad, organizing an unsanctioned rally and participating in the activities of a criminal group.

57. Khushruz Djumaev is a journalist and blogger known under the pseudonym Khushom Guliam. He covered the history and culture of the Pamiri people on his website Pomere.info, which was not accessible at the time of writing, and social media, and contributed to several other cultural, linguistic and media projects in Kūhisoni Badakhshon Autonomous Province.<sup>21</sup>

58. On 19 May 2022, officers in the department for combating organized crime, under the Ministry of the Interior, reportedly arrested Mr. Djumaev at his home in Dushanbe. According to some reports, his electronic devices were seized. His family was unaware of his fate and whereabouts for four days before the authorities informed them that he was being detained at the headquarters of the department for combating organized crime. On 23 May 2022, a court allegedly remanded Mr. Djumaev in custody pending an investigation on unconfirmed charges. Authorities reportedly classified the case against him as secret and placed his lawyer under a non-disclosure order. Mr. Djumaev was reportedly later charged with membership in a criminal group (article 187 of the Criminal Code) and making public calls to overthrow the constitutional order (article 307 (2) of the Criminal Code). According to some reports, he was also charged with organizing unsanctioned protests.<sup>22</sup> On 9 December 2022, it was reported that, in the week of 5 December 2022, the Supreme Court of Tajikistan had convicted Mr. Djumaev and sentenced him to eight years in prison. The trial was reportedly held behind closed doors at the State Committee for National Security's pretrial detention centre in Dushanbe. According to the statement of the Prosecutor General's Office released on 26 January 2023, the Supreme Court tried Mr. Djumaev and found him guilty of establishing a criminal association.

59. These four cases reveal a worrying pattern of criminal persecution against human rights defenders who were actively involved in the events that took place in Kūhisoni Badakhshon Autonomous Province. Those who spoke up, got organized and investigated and criticized current policies or governing rules have faced criminal charges and received heavy prison sentences following trials that did not meet fair trial standards. As a result of this climate of fear and persecution many are currently being allegedly arbitrarily detained. Others, or members of the families of those detained, have had to flee the country. It was particularly disappointing that four human rights defenders were sentenced to lengthy prison sentences during the visit of the Special Rapporteur to the country.

60. Due to the heightened risks faced by human rights defenders and lawyers working on issues related to Kūhisoni Badakhshon Autonomous Province, their numbers have significantly decreased. In particular, there is a drastic lack of lawyers working in the region.

<sup>19</sup> See communication TJK 3/2022, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27560>.

<sup>20</sup> Ibid.

<sup>21</sup> See communication TJK 1/2023.

<sup>22</sup> Ibid.

61. The situation in that region also has had a broader impact on the ability of civil society to operate in the country and seems to have marked a watershed moment in the attitude of authorities towards civil society organizations in general, not only in Tajikistan, but also abroad. The country visit only allowed the Special Rapporteur to see the tip of the iceberg. The cases of the four human rights defenders mentioned above are the few cases she was able to take up. While she has been made aware of many more, the human rights defenders concerned, or their legal representatives or family members, did not want her to advocate on their behalf, for fear of persecution or reprisals.

## 2. Journalists and bloggers

62. Information received during the country visit indicated that the crackdown on independent journalists and bloggers who defend human rights had started in 2016, and had reached its lowest point in 2021, following the events in Kūhistoni Badakhshon Autonomous Province. Journalists and activists covering the protests in that region were targeted in particular, and two of them were sentenced to lengthy prison sentences without due process.

63. As at the time of writing, fewer than 10 independent media outlets exist. There is generally limited access to the Internet and information, thus State media control the information shared with the citizens of Tajikistan. In 2016, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had already shared concerns with regard to laws, decrees and policies – particularly those concerning terrorism, extremism and national security – that were undermining the free press and intimidating journalists, limiting citizen access to government information and blocking critical sources of information on the Internet.<sup>23</sup> Given the legislation amendments that have taken effect since, the Special Rapporteur sadly notes that the situation has only worsened and further limited the workspace for journalists and bloggers who defend human rights.

64. The accreditation process for journalists in Tajikistan may in itself prevent them from conducting their work consistently and independently. Credentials are being attributed by the Ministry of Foreign Affairs on an annual basis. For foreign-media journalists, it is forbidden to work in Tajikistan without accreditation. The independent media outlet Radio Ozodi (Radio Free Europe/Radio Liberty), which also reports on human rights violations, experienced non-renewal or short accreditation for its journalists. At the time of the country visit, no accreditation was being provided to new journalists or media outlets. International media outlets are accredited for one year while their individual journalists only receive three-month accreditation. It is felt that this requirement is instrumentalized to exert pressure on media outlets and journalists.

65. The clampdown on voices critical of human rights violations includes those seen as not respectful or not in accordance with the country's values, traditions and interests. Journalists and bloggers who defend human rights working on sensitive topics such as government law and policies, events in Kūhistoni Badakhshon Autonomous Province, torture and corruption are those most targeted. They are being silenced through various means, with the aim of labeling them as criminals or a threat to the country.

66. Journalists and bloggers who defend human rights are being charged with little reliable evidence, following inadequate investigations and trials taking place in closed settings. Laws on preventing extremism and combating terrorism are being used to target and criminalize human rights defenders who are independent journalists, citizen bloggers and other media workers. Some of those covering the Kūhistoni Badakhshon Autonomous Province events have been physically attacked and their equipment confiscated.

67. In the six months prior to the country visit, approximately 20 journalists and bloggers were reportedly arrested and detained. During the visit, the Special Rapporteur was able to meet two who were being held in pretrial detention: Daler Bobiev and Avazmad Ghurbatov. These visits were carried out without the presence of guards or other government officials,

<sup>23</sup> See <https://www.ohchr.org/en/statements/2016/03/preliminary-observations-united-nations-special-rapporteur-right-freedom-opinion?LangID=E&NewsID=17193>.

and the Special Rapporteur appreciates the efforts made by the authorities of Tajikistan to facilitate them.

68. Mr. Bobiev is a journalist, blogger and human rights defender who works under the name Daler Imomali. His YouTube channel @DalerImomali covered social issues and citizens' complaints about alleged government abuses and had about 150,000 subscribers as of June 2022. On 4 June 2022, Mr. Bobiev allegedly recorded a report in Dushanbe. On his way back from recording, he was intercepted by persons in an unmarked car and physically assaulted. He was later interrogated for five hours, and was asked about his report on house demolitions by the local authorities. Interrogating officials demanded that he delete two of his YouTube videos as a condition for his release. He allegedly deleted the videos under the pressure of those demands.<sup>24</sup>

69. On 15 June 2022, Mr. Bobiev was allegedly arrested in the country's northern Ayni District. He was charged under article 259 (1) (illegal entrepreneurship), article 346 (2) (a) (premeditated false denunciation of a grave or particularly grave offence) and article 307 (3) (2) (participating in the activities of an extremist organization and assisting them through the mass media, the Internet or otherwise) of the Criminal Code. The charges related to his YouTube earnings, a video published over a year earlier containing accusations against the Deputy Head of Shohmansur District, and alleged ties to the banned opposition movement Group 24, reportedly denied by both the journalist and Group 24. On 18 June 2022, the Shohmansur District Court of Dushanbe placed Mr. Bobiev in pretrial detention following a closed-door hearing and classified his case as secret. The lawyers were placed under a non-disclosure order. According to reports, Mr. Bobiev was denied family visits and had health problems in detention. On 17 October 2022, the Shohmansur District Court convicted Mr. Bobiev on all counts and sentenced him to 10 years in prison and a substantial 12,000 somoni (994 euros) fine in a closed trial held at the pretrial detention facility. The verdict was allegedly upheld on appeal.<sup>25</sup>

70. Mr. Ghurbatov is a journalist, blogger, award-winning documentary filmmaker and human rights defender who works under the name Abdulloh Ghurbati. He worked as a camera operator on the @DalerImomali YouTube channel. He also worked for the Centre for Investigative Journalism of Tajikistan and the independent news agency Asia Plus.<sup>26</sup>

71. On 11 May 2020, two unidentified men allegedly attacked Mr. Ghurbatov outside his home in Dushanbe. He reportedly sustained injuries to his head, arms and legs and suffered from backache as a result of the attack. Before that, since mid-April 2020, he had allegedly received several online and phone threats for his coverage of the response of Tajikistan to the COVID-19 pandemic. On 14 May 2020, a criminal investigation was opened into the attack, but the attackers have not been identified. On 29 May 2020, three men allegedly physically attacked Mr. Ghurbatov in the southern Khuroson District of Tajikistan when he arrived to report on the aftermath of a landslide that had affected local residents. The attackers have been identified, with the help of civil society. On 2 June 2020, the Khuroson District Court ordered each of the attackers to pay a 580 somoni (48 euros) fine for committing the administrative offence of "petty hooliganism" (article 460 of the Code on Administrative Offences) rather than "obstruction of the lawful professional activity of a journalist", a more serious crime.<sup>27</sup>

72. On 15 June 2022, Mr. Ghurbatov was summoned to the police office in Dushanbe for interrogation as a witness in the criminal case against Mr. Daler Bobiev. He was then reportedly arrested for allegedly striking and insulting a police officer as he left the interrogation; he denied the allegation. On 18 June 2022, the Shohmansur District Court of Dushanbe reportedly placed him in pretrial detention following a closed-door court hearing. He was charged under article 328 (1) (use of violence not threatening the life or health of a public official), article 330 (1) (publicly insulting a public official) and article 307 (3) (2) ("participating in the activities of an extremist organization and assisting them through the mass media, the Internet or otherwise") of the Criminal Code. He was convicted on all three

<sup>24</sup> See also communication TJK 1/2023.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

counts and sentenced to seven and a half years in prison during a closed trial held at the pretrial detention facility.<sup>28</sup>

73. In July 2022, Shodruz Akhrorov, an Internet activist who had been deported to Tajikistan from the Russian Federation in May 2022, was sentenced to six years in prison for calling for extremism through the Internet. Mr. Akhrorov had published videos critical of the lack of support from Tajik authorities for Tajik migrant workers in the Russian Federation.<sup>29</sup>

74. Internet shutdowns have also been reported, in particular during and after the Kūhistoni Badakhshon Autonomous Province events. Reportedly, 18 authorities have the right to block websites without judicial decisions or oversight. Certain topics are deemed too sensitive to write about, while others are outright banned. Many journalists, media workers and bloggers have increasingly resorted to self-censorship. Several journalists have also left the country.

75. The Special Rapporteur was also informed about gender-based smear campaigns against women journalists, who have faced the dissemination of intimate photos and videos about them on social media platforms.

76. Several journalists have reported that their electronic devices and equipment were confiscated without warrant and never returned.

### 3. Human rights lawyers and the independence of the judiciary

77. Despite several measures taken to reform the judiciary, it still lacks independence. Even though the legal and judicial machinery is in place, the system needs further reforms in order to guarantee the independence of the judiciary.

78. Many judges are poorly trained and inexperienced. Corruption is widespread, as is pressure from the executive branch. The 2016 constitutional amendments abolished the Council of Justice, transferring the authority for judicial nominations and oversight to the Supreme Court.

79. Lawyers have also been facing significant constraints and challenges in exercising their profession, and their rights, and those of their clients, are often not guaranteed. Various law enforcement agencies reportedly systematically intervene in or restrict the work of lawyers.

80. Lawyers in Tajikistan have faced persecution for their involvement in politically sensitive cases, which has included providing defence services for human rights defenders. The interference comes in the form of intimidation and threats against attorneys (and their families) and through disciplinary, administrative and even criminal charges for doing their work.

81. Additionally, owing to the definitions of terrorism and extremism in the State legislation, lawyers who defend clients indicted on charges of terrorism or extremism risk criminal prosecution for the same or similar crimes. Lawyers are often conflated with their clients. The Pamir Lawyers' Association was shut down by the Government, and no information was provided to its members about the legal grounds for dissolution.

82. Another issue brought to the attention of the Special Rapporteur was the lack of overall openness of trials. Under international law, all court hearings must be open to the public in order to ensure transparency of proceedings. Under the Constitution, proceedings in all courts are open, unless otherwise provided for by law. This principle is reiterated in the Law on Courts. Under the Code of Criminal Procedure, a judge must ensure open trial of cases, with the exception of cases where this may lead to the disclosure of State and other secrets protected by law.

83. In reality however, there are several obstacles and practical impediments to accessing court proceedings, including that the dates of the hearings are not announced on the court websites, schedules are subject to change and the court facilities do not have the capacity to

<sup>28</sup> Ibid.

<sup>29</sup> See <https://www.hrw.org/world-report/2023/country-chapters/tajikistan>.

accommodate observers, family members and the media. Trial dates are often communicated only 30 minutes before the hearing. Additionally, trials are often ruled to be secret, even if the grounds for closing such hearings to the public may be questionable.

84. Sometimes court hearings are open in theory, but take place in closed institutions, such as pretrial detention facilities (SIZOs). The public and the media are in practice excluded from attending such trials, as these detention facilities are not open for the public, family members or the media. The practice of holding hearings in detention facilities became more common as a reaction to the COVID-19 pandemic, and reliance on this practice has not decreased following the pandemic. Admission to court buildings is also an issue. This prevents human rights defenders under judicial proceedings from having their trials witnessed by independent observers, and also obstructs human rights defenders, media professionals and other stakeholders from carrying out trial observation.

85. Lawyers, in particular those working on what are deemed sensitive human rights issues, are frequently invited to informal questioning sessions by the police and the security apparatus. This is usually done without any summons or warrant, and in some cases the questioning has lasted hours.

86. Lawyers have also been increasingly subjected to inspections, the number of which has reportedly increased since 2022. They are carried out by the tax authority and the Ministry of Justice. The offices of human rights lawyers are also reportedly frequently visited by security agents, sometimes as often as twice per month.

87. The combination of these constraints significantly affects the ability of human rights defenders, human rights lawyers, representatives of the media and other relevant stakeholders to carry out their legitimate work.

88. The Special Rapporteur noted with interest the commission for the protection of lawyers within the Union of Lawyers of Tajikistan; the head of the Bar Association and other lawyers are members of the commission. The role of the commission is to assign lawyers to protect human rights lawyers and act as their attorneys.

89. The Special Rapporteur has also received information about increased pressure on the Coalition against Torture and its members, most of whom are human rights lawyers.

90. Human rights lawyer Abdulmajid Rizoiev remains detained in a high-security prison. He was sentenced in June 2021 on charges of public calls to carry out extremist activity through the media or the Internet, after he posted ironic comments about government policies on Facebook. His sentence – five and a half years of prison – was upheld by Dushanbe City Court.<sup>30</sup> During his trial, Mr. Rizoiev was reportedly able to see his lawyer only once, and his family was denied access to him. In September 2021, his prison sentence was reduced to three years under an amnesty law.

91. Another lawyer, Buzurgmehr Yorov,<sup>31</sup> was sentenced in 2016 to over 20 years of imprisonment on what appear to be trumped-up charges, after he provided legal representation to leaders and members of the banned Islamic Renaissance Party. In October 2021 his prison sentence was reduced by four years. He was detained for eight months before his trial, during which period he was reportedly physically abused and held in solitary confinement. In April 2019, the Working Group on Arbitrary Detention concluded that Mr. Yorov's detention violated international law and called on the authorities to release him.<sup>32</sup>

92. In November 2021, imprisoned lawyer Saidnuriddin Shamsiddinov was sentenced to an additional eight months in prison for allegedly cooperating with the banned Group 24. He was convicted in late 2020 under seven articles of the Criminal Code, including on charges of fraud and dissemination of false information, and was sentenced to eight years in prison.

<sup>30</sup> See communication TJK 1/2023.

<sup>31</sup> See communication TJK 1/2020, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25677>.

<sup>32</sup> See opinion No. 17/2019.



#### 4. Women human rights defenders

93. While the majority of human rights defenders and human rights lawyers in the country are women, they have been facing heightened and gender-based risks and threats. Cyberattacks, bullying, smear campaigns and harassment are also common online practices used against women human rights defenders on social media. Fake and/or intimate content is sometimes shared online with the aim of destroying or undermining their reputation and legitimacy.

94. One of the most emblematic cases of women human rights defenders is that of human rights defender and former journalist Ulfathonim Mamadshoeva, mentioned above.<sup>33</sup> Her organization worked in the area of the rights of women and children and she had denied having participated in the Kūhisoni Badakhshon Autonomous Province protests. Her trial was held behind closed doors, lacking key fair trial and due process standards.

#### 5. Lesbian, gay, bisexual, transgender and intersex rights defenders

95. The Law on Equality and Elimination of All Forms of Discrimination is a good step in the right direction with regard to countering discrimination against minorities. However, the new law does not include any reference to discrimination based on gender or sexual orientation. This is a serious omission and implies that rights of lesbian, gay, bisexual, transgender and intersex persons in Tajikistan, and of the human rights defenders promoting and protecting their rights, are not fully guaranteed and protected.

96. As the Special Rapporteur has noted in a joint statement, people who work to end violence and discrimination based on sexual orientation and gender identity face multiple forms of risk. They can be targeted for their actual or perceived sexual orientation or gender identity, and for being human rights defenders.<sup>34</sup>

97. The country visit confirms this tendency. lesbian, gay, bisexual, transgender, queer and intersex defenders feel unsafe, and often do not disclose their human rights activities and choose to carry out their work in secrecy. NGOs and activists who defend the rights of sexual minorities are frequently criticized by State authorities (see para. 44 above). Civil society organizations working in this area are subjected to serious and regular inspections, including closure of organizations.

98. Lesbian, gay, bisexual, transgender, queer and intersex defenders are also experiencing serious pressure due to their international advocacy work, including for their reporting to United Nations human rights mechanisms. One organization told the Special Rapporteur that after it had submitted a shadow report to the Committee against Torture, security agents had visited the organization's office for an "informal meeting". Another organization working on the protection of lesbian, gay, bisexual, transgender, queer and intersex persons stated that members of the organization were often personally put in peril by members of the police and the security committee, who threatened to "out them" to their families and communities, in order to extract bribes from them. Many of these defenders also experience cyberbullying, online and offline harassment and pressure through "informal questionings" and warnings.

#### 6. Young human rights defenders

99. During her discussions, the Special Rapporteur heard that young people interested in human rights could not easily access information or materials to encourage their peaceful human rights work. While officials in the Ombudsman's Office and the Ministry of the Interior mentioned progress in the field of human rights education, human rights defenders reported that little educational material on human rights was available in schools, especially in the Tajik language. This is further compounded by the provision from the Ministry of Education reportedly preventing students from participating in NGO activities during school time.

<sup>33</sup> See also communication TJK 1/2023.

<sup>34</sup> See <https://www.ohchr.org/en/statements/2022/03/defenders-human-rights-lgbt-persons-constantly-risk-warn-un-experts>.



100. The Special Rapporteur is of the belief that human rights education is an important tool to prevent the radicalization of young people and should be encouraged both in school settings and outside of schools. Awareness-raising about human rights, and the involvement of children and youth in decision-making processes, empowers them and helps prevent their alienation.

### **C. Lack of support from the international community**

101. Many human rights defenders considered leaving Tajikistan, at least temporarily, for their own safety and that of their families. Reaching safe havens is often dangerous and, according to reports, some defenders have been forcibly returned to Tajikistan or extradited from neighbouring countries. This phenomenon appears to have worsened since the events in Kūhisoni Badakhshon Autonomous Province. Authorities have informed the Special Rapporteur that they are working with the Working Group on Enforced or Involuntary Disappearances on this issue.

102. Those who need to flee often need a visa to reach a safe place. Human rights defenders reported increased difficulties in obtaining emergency visas for temporary relocation. Despite the presence of embassies of countries or regions with existing guidelines or policies on the protection of human rights defenders that should be adhered to, namely the United Kingdom of Great Britain and Northern Ireland<sup>35</sup> and the United States of America,<sup>36</sup> and the European Union, among others, many defenders complained of a lack of meaningful engagement from embassies and international agencies. It can be even challenging to find information on the designated focal point for human rights defenders at an embassy or for the application of the European Union guidelines on human rights defenders, which spell out the steps they should undertake. Human rights defenders also reported their impression to the Special Rapporteur that the Guidelines on the Protection of Human Rights Defenders issued by the Organization for Security and Cooperation in Europe were not being applied to their full extent and that there could be significant improvements in the full implementation of the Secretary-General's call to action for human rights by the United Nations country team in Dushanbe.

103. Despite the existence of a rich framework of national, regional and international guidelines and policies, reports from human rights defenders suggest that these guidelines are being inconsistently applied, or in some cases simply ignored. Human rights defenders often feel abandoned and have to rely on each other for support. This lack of solidarity from the international community puts an additional layer of pressure on the human rights defenders' community in Tajikistan. The country gets little attention internationally, and human rights defenders must navigate a restricted civic space to work and struggle to build alliances even with actors represented within the country.

## **IV. Conclusion and recommendations**

104. **The Special Rapporteur appreciates the availability of the authorities of Tajikistan for discussing issues related to human rights defenders and civic space. She was impressed by the resilience, ingenuity and solidarity of members of civil society in Tajikistan, who continue their important human rights work despite difficult circumstances.**

105. **A new wave of protests in Kūhisoni Badakhshon Autonomous Province began in May 2022. They followed months of persecution of local residents related to the protests of November 2021, in which persons in the Province had peacefully exercised their rights to freedom of expression and assembly in order to protest against abuses against their community, and the ensuing violent crackdown by the law enforcement agencies initiated. Since the renewal of protests, carrying out any type of human rights**

<sup>35</sup> See United Kingdom, "UK support for human rights defenders" (July 2019).

<sup>36</sup> See United States, "Guidelines for U.S. diplomatic mission support to civil society and human rights defenders".

work has become difficult, and in some cases, impossible. Human rights defenders, civil society organizations, lawyers, journalists and bloggers are working in an environment where they may be arrested at any moment on spurious charges, be summoned for routine questioning or face the closure of their organizations or criminal charges.

106. It is in that context that the Special Rapporteur wishes to offer the following recommendations.

#### **Recommendations for the Government**

107. The Special Rapporteur recommends that the Government:

(a) Engage in a constructive dialogue with all segments of society, including religious, political and social groups, including civil society and human rights defenders, in order to ensure the protection of human rights;

(b) Ensure that human rights defenders can carry out their work in a conducive legal and administrative framework, and promptly implement outstanding recommendations and decisions of international and regional human rights mechanisms;

(c) Publicly acknowledge and recognize the legitimate work of and fundamental role played by human rights defenders and the innumerable contributions they have made to the promotion and protection of human rights, and condemn any intimidation of them or any attempt to discredit them;

(d) Adopt a zero-tolerance policy in cases of intimidation and stigmatization of human rights defenders, journalists and lawyers; investigate promptly, independently, impartially and effectively any act of reprisal, intimidation or stigmatization against them, bring the perpetrators to justice and ensure effective remedies for victims;

(e) Put an end to the misuse of criminal law in the context of the peaceful and legitimate activities of human rights defenders;

(f) Drop outstanding criminal charges against and investigations into human rights defenders, lawyers, journalists, bloggers and others and release those who have been convicted for merely exercising their right to freedom of opinion and expression and freedom of assembly and association;

(g) Take legislative and practical measures to ensure the full independence of the human rights Ombudsman in law and practice;

(h) Take legislative and practical measures to ensure the full independence and impartiality of the judiciary, free from political pressure and corruption; ensure that trials are conducted in a fair manner, with due process guarantees; and ensure that the principles of equality before the law and the presumption of innocence are upheld;

(i) Take immediate measures to ensure, both in law and in practice, the full independence and safety of lawyers and their effective protection against any form of retaliation and harassment related to their professional activity;

(j) Ensure that investigation and prosecution of alleged violations against human rights defenders and journalists are carried out in a timely manner, in accordance with international human rights law;

(k) Improve conditions in prisons and other places of detention, including by providing regular access to quality medical care;

(l) Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and set up a national preventive mechanism;

(m) Establish a coordinating committee comprising various ministries and other government agencies to ensure the implementation of recommendations stemming from various United Nations human rights mechanisms and regional human rights organizations;

- (n) Increase the pace at which the national action plan on human rights is being implemented;
- (o) Ensure that human rights defenders and civil society actors are included in consultations on draft legislation and policy initiatives in a meaningful and inclusive manner, with sufficient time frames in which to comment on draft proposals and a genuine opportunity to have their views heard;
- (p) Create awareness within government agencies about the concept of human rights defenders and the importance of their legitimate and peaceful activities, through long-term public campaigns and education;
- (q) Promote the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders) in society through long-term public-facing campaigns and education; and pay particular attention to including the issue of human rights defenders in the human rights education plan;
- (r) Adopt a specific law on the protection of human rights defenders, including a definition of human rights defenders in line with the above-mentioned Declaration;
- (s) Review and amend existing legislation that restricts the rights of civil society organizations and human rights defenders;
- (t) Proactively engage with child and young human rights defenders and involve them in consultations on draft policies and legislation; and allow students to participate in human rights activities during school time;
- (u) Meaningfully involve representatives of civil society in the drafting of reports to United Nations human rights mechanisms, and ensure their timely, meaningful and inclusive participation;
- (v) Ensure that human rights defenders and their organizations are not being subjected to an excessive number of inspections and to informal questioning beyond what is strictly necessary; and decrease the crippling administrative burdens currently in place for NGOs;
- (w) Encourage and support, at the highest levels of government and including through public statements, the work of journalists covering human rights issues, in particular those working on issues related to migration and corruption;
- (x) Ensure that independent media outlets and journalists are accredited in a timely and transparent manner, and that the denial of accreditation or delays in the accreditation process are not used as retaliation for critical reporting, including on human rights issues;
- (y) Amend the Criminal Code to bring it into line with the international human rights obligations of Tajikistan, in particular by clarifying and amending the definition of terrorism and terrorist acts, to avoid the misuse of the law to crack down on dissenting or critical voices;
- (z) Ensure the comprehensive implementation of the Law on Equality and the Elimination of All Forms of Discrimination and consider amending it to specifically include additional groups, such as women living with HIV and lesbian, gay, bisexual, transgender and intersex persons;
- (aa) Ensure that those cooperating with the United Nations in the field of human rights do not face intimidation or reprisals as a result of their work;
- (bb) Permit independent human rights monitoring to take place in Kūhistoni Badakhshon Autonomous Province.

**Recommendations for the international community**

108. The Special Rapporteur recommends that members of the international community:

(a) Build formal and informal links with human rights defenders and NGOs in the country, recognize their important role publicly and raise awareness about their status and work, as well as the protection measures they require;

(b) Identify and appoint a focal point for human rights defenders in the country, and make this information available; widely disseminate the Declaration on Human Rights Defenders, and any national or regional protection guidelines they may have, in local languages;

(c) Support networks of human rights defenders with a view to increasing their capacity, resilience and protection;

(d) Organize public events for human rights defenders to attend and invite such defenders to existing events, such as national days celebrated by embassies, international human rights days and other similar commemorative occasions.

109. The Special Rapporteur also recommends that embassy and United Nations officials visit human rights defenders in Dushanbe and elsewhere in the country.

**Recommendations for donors**

110. The Special Rapporteur recommends that donors:

(a) Provide sufficient funding for the regular activities of human rights organizations, instead of focusing mainly on specific projects;

(b) Provide funds for the setting up and operation of networks of human rights defenders;

(c) Support the short-term internal and international relocation of human rights defenders at risk by providing flexible emergency funding.

**Recommendation for civil society organizations**

111. The Special Rapporteur recommends that civil society organizations continue to engage actively with United Nations human rights mechanisms and provide information about the situation of human rights in the country and about the environment they work in.

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