Tajikistan

IHF FOCUS: elections and referenda; freedom of expression and the media; fair trial, detainees' rights and torture; prisons; freedom of religion; death penalty; women's rights; social and economic rights.

In a by now well-known trend in Central Asia, Tajik President Imomali Rahkmonov consolidated his hold on power through a questionable referendum in 2003. The results of the June referendum on changes to the Constitution, which was characterized by a lack of transparency as well as not allowing citizens to make a free and informed choice, enable him to stay in office until 2020. The referendum followed an earlier one held in 1999, which extended Rahkmonov's current term from five to seven years.

The government continued to arbitrarily decide the content and the publication of private and independent newspapers and magazines and the content of what private television and radio stations broadcasted. Independent journalists worked under pressure and routinely engaged in self-censorship. Moreover, dozens of cases of murdered journalists during the civil war between 1992-1997 remained unresolved.

Criminal suspects were often denied due and fair process and allegations of torture were not adequately investigated. Reforms to reduce the scope of cases when the death penalty is applicable raised hopes that its usage will decrease. However, in 2003, new death sentences were imposed, and executions were carried out at a high rate. Prison conditions remained dangerous to the health and life of prisoners, in spite of hopes that a prison reform that was undertaken during the year would result in improvements regarding the treatment of prisoners.

Referring to the need to counteract "religious extremism," the Tajik government closely monitored the exercise of Islam. The deputy chairman of the Islamic Renaissance Party, which was the dominant faction of the opposition during the civil war, faced criminal charges that appeared to be politically motivated.

Alleged members of the Islamic movement Hizb-ut-Tahrir continued to be sentenced to lengthy prison terms, often based on extremely weak evidence as well as unfair trials. Religious minority communities that were not registered with the authorities were sometimes subjected to pressure and fined e.g. for holding unsanctioned meetings.

A majority of the population lived in poverty, and many young people left for other former Soviet republics in search for work. It was hoped that the problem of trafficking in women would be more effectively combated following a measure to criminalize all forms of trafficking in human beings.

Elections and Referenda

On 22 June, a referendum was held in Tajikistan, in which voters were asked to approve or reject a package of 56 amendments to the 1999 Tajik Constitution. While most of the proposed amendments were merely technical in character, the package also included a controversial amendment to extend the number of years that a Tajik president may hold office—from one to

two seven-year periods. According to official information, the voter turnout was 96%, and 93% of the participants endorsed the package of amendments. The outcome will allow President Rakhmonov to stand for re-election on two more occasions after his current term in office expires in 2006. A number of observers believed that this was the very purpose of the referendum, and that the other technical amendments were put to vote solely to disguise the president's bid to perpetuate his rule. Rahkmonov became president in 1994, namely when the presidential post was first established in Tajikistan. He was re-elected in a 1999 vote that was criticized as flawed by international observers.

No international observers were present to monitor the 2003 referendum because the Tajik government failed to send out invitations in due time.⁵ However, in a comment on the referendum, the OSCE expressed content with the calm and peaceful atmosphere in which it had taken place. However, the unusually high voter turnout raised concerns by the OSCE with respect to the transparency of the electoral process and the accuracy of the reporting of results. The OSCE also deplored the lack of a fair campaign leading up to the referendum, as well as the wording of the referendum question, which prevented voters from expressing their opinions on individual changes by requiring them either to approve or reject all amendments as a package.⁶ It was clear that many voters were not familiar with the actual content of the proposed amendments since they were published only in two state newspapers, neither of which have a large circulation.⁷ Most opposition parties were critical of the referendum, and the Democratic Party of Tajikistan boycotted it.⁸

Freedom of Expression and the Media

Since 2002, the media situation improved in Tajikistan, according to the NGO "Press Now", a significant number of privately owned media outlets emerged, including agencies, newspapers, local television and FM radio stations. Earlier, independent media outlets were virtually not allowed to exist. Nevertheless, the government attitude towards media remained straightforward also in 2003: state-owned media were viewed as extensions of state bureaucracy and their main role was to help fulfill government policies. The independent media were generally treated with suspicion and sometimes with outright animosity.⁹

¹ RFE/RL, Adam Albion, "Tajik Opposition Resigned to Government Victory in Referendum," in *RFE/RL Newsline – Endnote*, 20 June 2003.

² Institute for War and Peace Reporting, Zafar Abdullaev and Saida Nazarova (pseudonym), "Referendum Result Controversy," in *Reporting Central Asia*, No. 212, 28 June 2003.

³ RFE/RL, Adam Albion, "Tajik Opposition Resigned to Government Victory in Referndum," in *RFE/RL Newsline – Endnote*, 20 June 2003.

⁴ Institute for War and Peace Reporting, Saida Nazarova (pseudonym), "Rakhmonov Set to Perpetuate Rule," in *Reporting Central Asia*, No. 200, April 28, 2003.

⁵ RFE/RL, Adam Albion, "Tajik Opposition Resigned to Government Victory in Referendum," in *RFE/RL Newsline – Endnote*, 20 June 2003.

⁶ OSCE/ODIHR, "OSCE Welcomes Peaceful Voting During Referendum in Tajikistan, but Notes Shortcomings in Electoral Framework," 24 June 2003, at http://www.osce.org/news/generate.pf.php3?news_id=3371.

⁷ Institute for War and Peace Reporting, Zafar Abdullaev and Saida Nazarova (pseudonym), "Referendum Result Controversy," in *Reporting Central Asia*, No. 212, 28 June 2003.

⁸ OSCE/ODIHR, op.cit.

⁹ Press Now, *Media in the Central Asian Republics*, Fact-Finding Mission Report, July 2003.

While the Tajik Constitution generally guaranteed freedom of expression and the media, other laws however restricted it. It was prohibited to write on "state or otherwise protected secrets," to libel the "honor and dignity" of the state and the president, to spread war propaganda or racial or ethnic hatred. In practice these—formally reasonable—restrictions were often used as a pretext against journalist who expressed undesired political views. ¹⁰

Critical media outlets and journalist sometimes faced serious problems, including harassment by the tax police and other government bodies or refusal by the state-printing house to print "problematic" papers. Independent media outlets faced serious financial problems and their technology was usually entirely outdated.¹¹

The government, in order to deny independent media access to information, used another tactic: journalists experienced great difficulties in obtaining information from the government on issues of public interest. The president and senior government officials were rarely available to meet with the press, and many government bodies refused to give out information, although by law they were obliged to grant access to all non-classified material that they produced. ¹²

The government enjoyed a virtual monopoly of the printing industry—the state-controlled Sharki Ozod printing house in Dushanbe was the cheapest and the only one likely to have enough stock of plates, ink and paper. On the other hand, it was also used to control papers: it could refuse to print non-governmental papers or suddenly raise prices for them. The same applied to other state-owned printers outside the capital. ¹³

• State-owned publishing houses refused to publish the weekly *Ruzi Naw* in Dushanbe and the newspapers *Sughd* and *Varoud* in Khujand.

Because of the difficulties related to publishing independent newspapers, and because journalists feared being subject to retaliation if they were too critical of the government in their reporting, independent journalists often engaged in self-censorship.¹⁴

Independent television and radio stations were sometimes arbitrarily denied broadcasting licenses.

• In September, the state Radio and Television Committee refused to grant the independent Asia-Plus news agency a license to broadcast television programs. The motive behind this act was that the news agency did not have "equipment meeting international standards" and that it had failed to "organize radio broadcasting properly." The committee stated that it would reconsider the application filed by Asia-Plus in six months. 15 As a result of the intervention by the president, Asia-Plus was granted a license

¹⁰ Ibid.

¹¹ Ibid.

¹² Committee to Protect Journalists (CPJ), "CPJ Delegation Calls for Greater Press Access and en End to Impunity in Tajikistan," 24 July 2003, at http://www.cpj.org/news/2003/Tajik24july03na.html.

¹³ Press Now, op.cit.

¹⁴ Information from independent sources in Tajikistan to the IHF, February 2004.

¹⁵ BBC, "Tajik Independent News Agency Fails to Obtain License for TV Broadcasting," 29 September 2003.

to broadcast radio programs in mid-2002. It was the first independent radio station to be allowed to go on air in the capital Dushanbe. 16

A considerable number of cases in which journalists were allegedly killed because of their work during the civil war were yet to be adequately investigated and prosecuted. The New York-based Committee to Protect Journalists presented a list of 29 cases, out of which all but one was unresolved.17

In July, the Tajik Supreme Court found Narzibek Davlatov and Akhtam Toirov guilty of being accomplices in the murders of BBC journalist Muhiddin Olimpur in 1995 and Russian ORT journalist Viktor Nikulin in 1996. They were sentenced to 15 and 22 years in prison, respectively. According to the Supreme Court, Nozim Yunusov, a field commander of the United Tajik Opposition, who died during the civil war, ordered the murders of the foreign journalists. The person believed to have carried out the murders, Nasrullo Sharipov, was serving a prison sentence in Russia for an unrelated crime. The Russian government has reportedly rejected a request to extradite him to Taiikistan. 18

Defamation remained punishable under the country's Criminal Code, a fact that gave rise to criticism by international media organizations. These organizations emphasized, for example, that the defamation provisions stifled public debate and inhibited the development of a democratic culture in Tajikistan. 19

In May, the Tajik Parliament adopted a new advertising law, which was criticized for placing undue restrictions on the revenues independent media can obtain from advertising sales. According to the law, private electronic media may use no more than 30% of daily broadcast time to advertising, while private printed media can use at most 40% of its space for advertisements. ²⁰ It was feared that these provisions would endanger the existence of independent media outlets, which already were struggling because of rising production costs and decreasing circulation.²¹

Fair Trial, Detainees' Rights and Torture²²

Violations of due process standards remained a serious concern. In particular, detainees were often interrogated in the absence of their lawyers and were subjected to verbal and physical abuse as a way of forcing them to confess. Those charged with grave crimes such as murder and other offences carrying the death penalty were the most frequent targets of torture, which included beatings, rape and electric shocks. During trial, courts often failed to pay attention to allegations that the defendant had been tortured in pre-trial detention, and admitted as evidence confessions made under coercion. The principle of presumption of innocence was routinely

¹⁶ See IHF. Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2003

¹⁷ CPJ, "CPJ Requests Information on 29 Murdered Journalists," 27 August 2003, http://www.cpi.org/protests/03ltrs/Tajik27aug03pl.html.

¹⁸ RFE/RL Newsline, "Tajik Supreme Court Sentences Two for Involvement in Deaths of Journalists," 30 July 2003; CPJ, "CPJ Requests Information on 29 Murdered Journalists," 27 August 2003.

¹⁹ CPJ, "CPJ Concerned about Criminal Defamation and Access to Information," 27 August 2003. http://www.cpi.org/protests/03ltrs/Tajik27aug03pl 2.html.

RFE/RL Newsline, "Tajik Media Concerned about Advertising Law," 30 May 2003.

²¹ Institute for War and Peace Reporting, Zafar Abdullaev, "Free Press in Financial Crisis," in *Reporting* Central Asia, No. 184, 19 February 2003.

See also Death Penalty and Freedom of Religion.

violated and the proceedings were typically biased against the defendant. It was also a common practice that courts remitted cases for further investigation instead of acquitting the defendant when there was not sufficient evidence to convict him/her.

Prisons²³

Most prisons were seriously overcrowded and cells were small and unsanitary. Prisoners were also poorly fed and diseases such as tuberculosis were widespread. As a result, death rates among prisoners were high.

In a welcome reform, in July 2002 it was formally decided to transfer jurisdiction over the Tajik penal institutions from the Ministry of Internal Affairs to the Ministry of Justice. It remained unclear, however, what actual impact this reform would have on prison conditions and the treatment of prisoners.

Freedom of Religion

Muslims

The Islamic Renaissance Party (IRP), which obtained legal status as a major concession by the government in the 1997 peace agreement, faced growing pressure. In particular, its reputation suffered a serious blow when one of its leaders was arrested and criminally charged.

In early June, unknown men accompanied by Ministry of Interior officials reportedly used force to take the deputy chairman of the IRP, Shamsiddin Shamsiddinov, from his home in northern Tajikistan to an unknown location. The authorities did not comment on the abduction. In October, Tajikistan's Military Prosecutor's Office charged Shamsiddinov with treason, organizing a criminal association, illegally crossing the national border, and polygamy. ²⁴ As of the end of the year, he remained detained in an investigation isolator in Dushanbe. ²⁵

The authorities denied that the case was politically motivated, but many observers believed that it formed part of the government's intensified efforts to combat radical Islam. ²⁶ In 2002, President Rakhmonov publicly accused IPR of "religious extremism." 27

Moreover, the Tajik government continued its campaign against the banned Hizb-ut-Tahrir movement, which advocates the establishment of an Islamic state in Central Asia. In this campaign, many people were targeted for "religious fundamentalism" although it was believed that they had never engaged in anything but peaceful activities. ²⁸ According to official information, as of October 2003, approximately 50 members of Hizb-ut-Tahrir had been arrested

See also Death Penalty.
 RFE/RL Newsline, 7 October 2003; RFE/RL, Bruce Pannier, "Islamic Renaissance Party Facing Serious Problems," RFE/RL Newsline – Endnote, 24 October 2003.

Information from independent sources in Tajikistan to the IHF, February 2004.

²⁶ RFE/RL, "Islamic Party Walking Softly under Tajik President's Big Stick," in *Central Asia Report*, Vol. 3, No. 32, 18 September 2003.

27 See IHF, op.cit.

28 Information from independent sources in Tajikistan to the IHF, February 2004.

in the country since the beginning of the year. Later the authorities reported that, during the year, more than 30 people, including five women, had been sentenced to prison terms because of their involvement in the movement. Between 1998 and 2003 more than 600 Hizb-ut-Tahrir members were imprisoned in Tajikistan. Typical charges against alleged Hizb-ut-Tahrir activists included inciting religious hatred, seeking to overthrow the constitutional order, distributing seditious literature and involvement in a criminal organization. The activists were often put on trial in proceedings characterized by irregularities, and some of them were allegedly subjected to torture in detention.

• On 11 June, a Dushanbe court sentenced Kasim Saidov to nine years imprisonment because of his involvement in Hizb-ut-Tahrir. According to the authorities, more than ten copies of pamphlets containing anti-governmental and anti-constitutional propaganda had been found in Saidov's home. Saidov was allegedly tortured during the investigation.³⁴

The authorities also sought to control the exercise of Islam in other ways. For example, only *imams* (Muslim leaders) who had been appointed with the approval of the authorities were allowed to work, and all Muslim literature imported to the country was closely scrutinized.³⁵

Other Religious Communities

According to the Law on Religious Associations, religious communities were not required to register with the authorities in Tajikistan. Registration was only necessary if the communities wished to obtain judicial status. However, local authorities widely believed that registration was compulsory, and sometimes took repressive measures against religious minority groups that were not registered. In doing so, they typically sought support in article 211 of the Code of Administrative Offences, which set out penalties for breaches of the Law on Religious Associations. In clear violation of the Law on Religious Associations, this article stated that religious communities that "refused" to register with the authorities could be subject to a fine up to twice the minimum wage. Article 211 of the code also stipulated that providing religious instruction without special permission, as well as conducting religious services without prior approval, was punishable with a fine between five and twelve times the minimum wage.

• On 20 April, police raided a flat in Tursun-Zade, 60 kilometers west of Dushanbe, where approximately 40 Jehovah's Witnesses had gathered for a meeting. Each Jehovah's Witness present was ordered to write a statement, and two men, Grigori Putenkov and Sukhrob Maksudov, were taken to the local police station. At the police station, the men were reportedly insulted and Putenkov was struck several times. They were released approximately an hour later. However, four days later a local court fined Putenkov and Maksudov five times the minimum wage for "providing religious instruction without a license." The judge also stated that no more than two members of the local Jehovah's

²⁹ BBC, "Two Hezb-e Tahrir Members Arrested in Tajikistan," 15 October 2003.

Muslim Uzbekistan, "Tajikistan Detains 'Hizbut-Tahrir' Activists," 1 January 2004, at http://www.mulsimuzbekistan.com/eng/ennews01012004 1.html.

³¹ RFE/RL Newsline, 3 October 2003.

³² Ibid.; *RFE/RL Newsline*, 24 September 2003.

³³ Information from independent sources in Tajikistan to the IHF, February 2004.

³⁴ Kyrgyz Committee of Human Rights, "Hizb-ut-Tahrir Activist was Convicted to 9 Years," 14 July 2003.

³⁵ Forum 18 News Service, "Religious Freedom Survey," 20 November 2003, at

http://www.forum18.org/Archive.php?article_id=190. 1bid.

Witness community were entitled to meet together at any one time since the community was not registered in Tursun-Zade. The local Jehovah's Witnesses strongly condemned the verdict, stressing that registration is not compulsory under the Law on Religious Associations, and arguing that there was no compelling evidence to show that Putenkov and Maksudov had engaged in religious instruction.³⁷

On 18 July, Andrei Reimer, a Baptist, was fined five times the minimum wage for holding religious meetings in the courtyard outside of his home in a suburb of Khudzand, the major town in the region of Suhgd, and for "talking to passers-by about God." He was threatened with property confiscation should he not pay the fine. Reimer is member of a group of Baptists that split away from the All-Union Council of Baptists in the 1960s, and that has refused registration ever since.³⁸

During the year, a new Religion Law was reportedly being drafted. Since the drafting process took place behind closed doors, virtually no information was publicly available about it. 3 However, according to a member of the State Committee for Religious Affairs, which was charged with the drafting, the new law would require that religious communities have 100 members in order to be eligible for registration. It was unclear whether registration would be made compulsory. 40

Death Penalty

In a positive development, the Tajik Parliament adopted amendments to the Tajik Criminal Code in July, reducing the number of crimes carrying the death penalty from 15 to 5 and abolished the death penalty for women, boys under the age of 18 men older than 60.⁴¹

Local human rights NGOs welcomed the move, and expressed hopes that it was a first step toward a moratorium on the death penalty. 42 However, representatives of the authorities were quoted as saying that it was yet premature to abolish the death penalty in the country, referring, inter alia, to the fact that public opinion polls showed that more than 70% of the population was in favor of retaining the death penalty. 43 An NGO activist commented on this statement by saying that Tajikistan was facing a "Catch-22" situation; "[t] he main argument for keeping the death penalty is that society is not ready for it to be abolished—but it will never be, as long as the state does not take a step in that direction."44

³⁷ Forum 18 News Service, "Jehovah's Witness to Challenge Fines in Supreme Court," 28 April 2003, at http://www.forum18.org/Archive.php?article_id=40.

Forum 18 News Service, "Baptist Fined for 'Talking to Passers-By about God'," 29 July 2003, at http://www.forum18.org/Archive.php?article_id=117.

³⁹ Information from independent sources in Tajikistan to the IHF, February 2004.

Forum 18 News Service, "Secrecy Surrounds New Draft Religion Law," 1 May 2003, at http://www.forum18.org/Archive.php?article_id=43.

All RFE/RL, Majorie Farquharson, "Tajikistan on the Defensive about the Death Penalty," in *RFE/RL*

Endnote, 6 August 2003; Amnesty International, *Death Penalty News: July 2003*.

42 Institute for War and Peace Reporting, Nargis Zokirova, "Execution Moratorium Hopes," in *Reporting* Central Asia, No. 191, 18 March 2003.

⁴³ RFE/RL Newsline, "Tajikistan "Not Ready" to Abolish Capital Punishment," 1 January 2003.

⁴⁴ Institute for War and Peace Reporting, Nargiz Zokirova, "Execution Moratorium Hopes," in *Reporting* Central Asia, No. 191, 18 March 2003.

In 2003 the death penalty remained in active use. As the authorities continued to treat information related to the imposition and execution of death sentences as a state secret, no comprehensive statistics were available. However, independent sources believed that more than 50 death sentences were imposed and approximately 30 executions were carried out in the country in 2003.⁴⁵

As in previous years, relatives of individuals sentenced to death were generally not informed when an execution was carried out or allowed to collect the belongings of their loved ones or prepare their bodies for a funeral. It also remained a matter of serious concern that those sentenced to death often were tried in unfair proceedings, where they, for example, were denied prompt access to a lawyer or convicted on the basis of confessions extracted under torture. 46

In November, the UN Human Rights Committee published its views on a communication submitted by the mother of Ismatovich Kurbanov, who was sentenced to death in Tajikistan in 2001. According to the facts provided by her, Kurbanov was inter alia detained for seven days without charge; prevented from communicating in private with his lawyer; refused assistance by a qualified interpreter although he is a Russian-speaker and does not understand Tajik; subjected to torture, such as beatings with truncheons, suffocation and electric shocks, to make him confess the murders he was charged with; and given an unfair trial where all requests made by the defense were rejected and the verdict was based on the confession he had been coerced into making. Kurbanov's mother also stated that her son was awaiting execution in inhuman conditions in a detention center in Dushanbe, and that his cell was extremely small, dirty, unhygienic and infected with insects. After examining the merits of the case, the Human Rights Committee concluded that Kurbanov's rights had been violated under articles 7 (the right not to be subjected to torture or to cruel, inhuman or degrading treatment); 9(2,3) (the right to be informed about reasons for arrest and charges and to be brought promptly before a judge); 10 (the right to be treated with humanity and respect for the inherent dignity of the human person); 14 (1, 3) (the right to a fair trial, including certain minimum guarantees) and 6 (the right to life) of the International Covenant on Civil and Political Rights. In July 2002, the Human Rights Committee requested the Tajik government to not carry out the death sentence against Kurbanov pending its examination of the case. However, the committee did not receive any reply. 47

As in previous years, political opponents were over-represented among those sentenced to death, indicating political motives behind the sentence.⁴⁸

• On 24 February, the Tajik Supreme Court handed down death sentences to nine members of armed rebel groups led by two men who belonged to the United Tajik Opposition during the civil war but subsequently refused to accept the 1997 peace agreement. The death sentences were later commuted into long-term prison sentences. Another 72 defendants received prison sentences ranging from 1.5 year to 25 years. All of them were accused of being members of the two Islamic groups, headed by Rakhmon Sanginov and Manur Muakalov, both killed in July 2001 during a military operation. This was the first

⁴⁵Information from independent sources in Tajikistan to the IHF, February 2004; Institute for War and Peace Reporting, Nargis Zokirova "Tajik Penal Reforms Disappoint," in *Reporting Central Asia*, No. 248, 21 November 2003.

⁴⁶ Information from independent sources in Tajikistan to the IHF, February 2004.

⁴⁷ UN Human Rights Committee. Communication 1096/2002: Tajikistan. 12 November 2003.

⁴⁸ Information from independent sources in Tajikistan to the IHF, February 2004.

time death sentences were handed down to a group of people. 49

Women's Rights

In May, the Tajik Parliament adopted a bill criminalizing trafficking in human beings. ⁵⁰ This step was welcomed since Tajikistan, along with the other Central Asian republics, is a significant country of origin of trafficking in human beings. In a 2001 report, the International Organization of Migration estimated that more than 1,000 women had been trafficked from Tajikistan in 2000. Most of the women were between 21-25 years old and were lured into becoming victims of trafficking by friends, acquaintances or even relatives who acted as recruiters. ⁵¹

Economic and Social Rights

Tajikistan remained the poorest of the Central Asian republics. According to the World Bank, more than 80% of the population lived below the poverty line, while 17% were extremely poor. As in previous years, the country was dependent on food assistance from abroad, as it produced only half of what it needed. As a result of the June referendum, constitutional guarantees to free health care and free higher education were abolished.⁵²

Unemployment rates were high and labor migration to other countries in the region was considerable. It was estimated that at least 600,000 Tajiks, i.e., about a tenth of the population, were working in Russia. The labor migrants were typically unskilled men between 18-35 years of age, who originated from rural areas. Most of them had entered their countries of destination illegally, and were therefore vulnerable to exploitation.⁵³

⁴⁹ "Centran" Information Agency on Central-Asian News, "Terrorists were sentenced in Tajikistan" (in Russian), 26 February 2003, at

http://www.centran.ru/cgi-bin/index.pl?text_id=5568&all=yes.

⁵⁰ RFE/RL Newsline, 22 May 2003.

⁵¹ International Organization of Migration, *Deceived Migrants from Tajikistan: A Study of Trafficking in Women and Children*, July 2001, at

http://www.iom.int/documents/publication/en/tajikistan%5Fstudy%5Faugust2001.pdf.

⁵² RFE/RL Newsline, 23 June 2003.

⁵³ Irinnews, "Special Report on Labour Migrants," 18 December 2003, at http://irrinnews.org/print.asp?ReportID=38490; Irinnews, "Food Security is 'Fragile' Says WFP," 23 December 2003, at http://www.irinnews.org/print.asp?ReportID=38750.