



FREEDOM NOW

**Briefing Paper:
Tajikistan's Cross-Border
Human Rights Violations**

March 2019

I. Background

The Republic of Tajikistan is located in Central Asia, bordered by Kyrgyzstan, China, Afghanistan, and Uzbekistan. It is the smallest nation in the region and is covered by the Pamir Mountains; more than 50 percent of the country is over 3,000 meters (9,800 feet) above sea level.

Shortly after declaring independence from the Soviet Union in 1991, Tajikistan became engaged in a protracted and bloody civil war as the Soviet-era ruling elite vied for power with loosely aligned ethnic and regional opposition groups, which were eventually brought together under the banner of the United Tajik Opposition (UTO). Hostilities began in May 1992 and after a prolonged stalemate formally ceased in June 1997 when the belligerents signed a United Nations-brokered peace agreement. The agreement included a series of political compromises that recognized the UTO as a legitimate political party, allocated 30 percent of government positions to opposition parties, and included a general amnesty that terminated any pending criminal proceedings against combatants and provided that no new criminal cases would be opened. However, after five years of hostilities, Tajikistan was devastated. More than 50,000 people had been killed and one-tenth of the population fled Tajikistan.¹

Since the war's end, tensions persisted between the ruling government and opposition groups and periodic fighting still broke out. Although the Constitution of Tajikistan provides for a multi-party system, one man has ruled the country since November 1992—President Emomali Rahmon, the leader of the People's Democratic Party (PDP). President Rahmon has had a lengthy career in Tajik politics. Following the dissolution of the Soviet Union, he was installed as Chairman of the Supreme Council of the Republic of Tajikistan.² When a presidential system was instituted in Tajikistan in 1994, he was elected president. International observers have widely criticized President Rahmon's initial election and three subsequent re-elections as neither "free nor fair."³

Tajikistan's parliamentary elections in the era of the Rahmon presidency have been equally marred. The PDP won 51 of the 63 seats in the 2015 elections. The remaining seats were divided among other pro-government parties.⁴

i. Persecution of opposition parties

Since ascending to power, President Rahmon and his party have steadily worked to dismantle and discredit any viable political opposition.

¹ *Tajikistan Profile - Overview*, BBC News (1 Sept. 2015), available at <http://www.bbc.com/news/world-asia-16201033>.

² *Tajikistan: Freedom in the World 2016*, Freedom House, available at <https://freedomhouse.org/report/freedom-world/2016/tajikistan>; *Regime Transition in Central Asia: Stateness, Nationalism and Political Change in Tajikistan and Uzbekistan*, Dagikhudo Dagiev (2014), app. A.

³ *The World's Enduring Dictators: Emomali Rahmon, Tajikistan*, CBS News (19 June 2011), available at <https://www.cbsnews.com/news/the-worlds-enduring-dictators-emomali-rahmon-tajikistan/> (2006 re-election); see also, e.g., *Tajikistan Profile – Timeline*, BBC News (4 Sept. 2017), available at <http://www.bbc.com/news/world-asia-16201087>; *Presidential Elections in Tajikistan a Farce*, Human Rights Watch (27 Oct. 1999), available at <https://www.hrw.org/news/1999/10/27/presidential-elections-tajikistan-farce> (describing the first post-civil war reelection in 1999 as a "demonstrat[ion] . . . [of] blatant bad faith in creating conditions for a fair and open vote").

⁴ *Id.*

Group 24 is an opposition movement created in 2011 by Umarali Quvvatov, a businessman living abroad in Russia at the time. The movement sought democratic reforms and accused President Rahmon and his inner circle of systematic corruption.⁵ Group 24 became well-known in mid-2012 after a media blitz organized by Quvvatov that resulted in a news conference and a series of TV appearances on an independent channel in Moscow.

The Tajik government struck out against Group 24 when activists planned a major anti-government protest on Dushanbe on 10 October 2014. In response, the government blocked up to 300 websites, shut down all texting services, and placed large numbers of police in Dushanbe. The Prosecutor General issued a statement accusing Group 24 of plotting a coup.⁶ The day before the planned protest the Supreme Court banned the party, accusing it of extremist activities.⁷ Several members were arrested in subsequent months.⁸ In January 2015, Internal Affairs Minister Ramazon Rakhimzoda confirmed that the government was tracking down Group 24 members living abroad, claiming that several members had already been detained in Russia.⁹ A few months later, Quvvatov was murdered in Istanbul by unknown assailants.¹⁰

The government also targeted Youth for the Revival of Tajikistan (YRT), a minor opposition party. Despite being separate and distinct from Group 24, the government considered the two groups the same entity and banned YRT's activities in October 2014 as well. In November 2014, unknown assailants attacked the party's leader, Maksud Ibragimov, in Russia and stabbed him several times. He survived, but in January 2015 he was forcibly transferred to Tajikistan where he was sentenced to 17 years in prison on charges of extremism.¹¹

The Islamic Renaissance Party of Tajikistan (IRPT) is the most prominent opposition party in Tajikistan and was for a time the largest.¹² Founded in 1990, the IRPT was one of the combatants in the civil war and formed the backbone of the UTO.¹³ After the war ended, the IRPT reoriented itself to become a leading moderate Islamist voice in the region.¹⁴

Although historically the IRPT held a small number of seats (usually two) in parliament,¹⁵ this modest representation reflected the lack of free and fair elections in the country, rather

⁵ *Tajikistan: Severe Crackdown on Political Opposition*, Human Rights Watch (17 Feb. 2016), available at <https://www.hrw.org/news/2016/02/17/tajikistan-severe-crackdown-political-opposition>.

⁶ *Id.*

⁷ *SMS Services Down In Tajikistan After Protest Calls*, Radio Free Europe/Radio Liberty (10 Oct. 2014), available at <https://www.rferl.org/a/tajikistan-sms-internet-group-24-quvatov-phone-message-blockage-dushanbe/26630390.html>.

⁸ *Tajik Activists Jailed For Ties To Banned Opposition Group*, Radio Free Europe/Radio Liberty (9 April 2015), available at <https://www.rferl.org/a/tajikisatn-jails-two-activists-group-24-quvatov/26946831.html>.

⁹ *Tajikistan: Severe Crackdown on Political Opposition*, *supra* note 5

¹⁰ *Tajik opposition leader Umarali Kuvatov shot dead in Istanbul*, The Guardian (6 March 2015), available at <https://www.theguardian.com/world/2015/mar/06/tajik-opposition-leader-umarali-kuvatov-shot-dead-in-istanbul>.

¹¹ *Tajikistan: Severe Crackdown on Political Opposition*, *supra* note 5

¹² *Interview with Muhiddin Kabiri Leader of the Islamic Renaissance Party of Tajikistan in-exile*, 33 Cent. Asia Policy Br. (Jan. 2016), <https://app.box.com/s/mx8rhxb3iz4lfl1gvevx3qvkdjipwkk2>

¹³ *Tajikistan: Reverse Political Party Closure*, Human Rights Watch (14 Sept. 2015), available at <https://www.hrw.org/news/2015/09/14/tajikistan-reverse-political-party-closure>.

¹⁴ *Tajikistan's Fight Against Political Islam*, Foreign Affairs (14 Mar. 2016), available at <https://www.foreignaffairs.com/articles/tajikistan/2016-03-14/tajikistans-fight-against-political-islam>; *see also An Islamist Party, Constraints, Opportunities and Transformation to Post-Islamism: The Tajik Case*, 55 *Uluslararası Hukuk ve Politika* 133, 141 (2009), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1777195.

¹⁵ *Cf. Tajik Parliamentary Elections Results: Opposition Parties Fail to Meet 5% Threshold*, European Forum for Democracy & Solidarity (5 Mar. 2015), available at https://www.europeanforum.net/headlines/tajik_parliamentary_elections_results_opposition_parties_fail_to_meet_5_threshold; *Tajikistan's Difficult Development Path*, Martha Brill Olcott (2012), pg. 44, available at <http://carnegieendowment.org/2012/10/15/tajikistan-s-difficult-development-path-pub-49587>.

than an absence of popular support for the IRPT. For example, in 2005, the IRPT officially won only 8.9 percent of votes in parliamentary elections (a proportion approximately equivalent to two seats). But domestic observers maintained that the IRPT would have received perhaps up to 30 per cent of votes in free and fair elections.¹⁶

Perhaps in reaction to the IRPT's popularity, in 2015, the government increased its harassment of the party.¹⁷ In March 2015, the IRPT lost all of its seats for the first time in since 1999.¹⁸ Before the election, Tajikistan's state-owned media mounted a smear campaign against the party, attempting to falsely link the IRPT and its members to extremism and moral degeneracy.¹⁹ After the election, the government increased its repression of the IRPT. In July 2015, pressure from the government resulted in mass resignations from the IRPT.²⁰ On 24 August 2015, the Prosecutor General's Office closed the IRPT headquarters, claiming the building was illegally purchased. Before the end of August 2015, the Ministry of Justice ordered the closure of IRPT, on the ground that it lacked a sufficient number of members to qualify for official registration.²¹

Tensions escalated following clashes between government forces and armed groups loyal to Deputy Defense Minister General Abduhalim Nazarzoda in Dushanbe on 4 September 2015. The government accused the IRPT of ties to the clash and accused it of organizing a failed coup.²² The government arrested at least thirteen members of the IRPT leadership, shortly thereafter. Many IRPT members not arrested in those raids fled the country.

On 29 September 2015,²³ the Supreme Court declared the IRPT a terrorist organization engaged in extremist activities.²⁴ The Court concluded that the IRPT had violated Article 4 of the Tajikistan Law on Political Parties because the party and its membership had engaged in "terrorist and extremist activities, violent overthrow of the constitutional regime, establishment of armed groups, or propaganda of hatred on the basis of race, ethnicity, nationality, or religion."²⁵ The decision authorized the government to shutter IRPT offices and arrest scores of additional IRPT members.²⁶ Using the Law on Combatting Terrorism, all

¹⁶ *Islamic Education in the Soviet Union and Its Successor States*, Michael Kemper, *et al.* (2010), pg. 336.

¹⁷ *Id.*

¹⁸ *Marginalization of Tajikistan's Political Opposition Could Threaten Security*, Eurasia Daily Monitor (24 Mar. 2015), available at <https://jamestown.org/program/marginalization-of-tajikistans-political-opposition-could-threaten-security/>.

¹⁹ *Tajikistan: Reverse Political Party Closure*, *supra* note 13.

²⁰ *Nations in Transit Ratings and Averaged Scores 4*, Freedom House (2016), available at https://freedomhouse.org/sites/default/files/NIT2016_Tajikistan.pdf.

²¹ *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression on his Mission to Tajikistan*, UN Human Rights Council, 34th Sess., 6 -23 June 6-June U.N. Doc. A/HRC/35/22/Add.2 (9 June 2017), ¶ 40 (hereinafter "2017 Special Rapporteur Report"), available at <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/Pages/ListReports.aspx>.

²² *UN Human Rights Office Voices Concern After Tajikistan Bans Islamic Political Party*, UN News Centre (2 Oct. 2015), available at <http://www.un.org/apps/news/story.asp?NewsID=52122#.WQx47WnyuUk>; *Violence in Tajikistan Emerges from Within the State*, The Central Asia-Caucasus Analyst (23 Sept. 2015), available at <https://www.cacianalyst.org/publications/analytical-articles/item/13279-violence-in-tajikistan-emerges-from-within-the-state.html>; 2017 Special Rapporteur Report, *supra* note 21, at ¶ 41.

²³ *The Case of the Islamic Renaissance Party of Tajikistan*, Global Freedom of Expression, (29 Sept. 2015), available at <https://globalfreedomofexpression.columbia.edu/cases/case-islamic-renaissance-party-tajikistan/>.

²⁴ *Tajikistan: Severe Crackdown on Political Opposition*, *supra* note 5.

²⁵ *The Case of the Islamic Renaissance Party of Tajikistan*, *supra* note 23; *see also* Article 4, Law of the Republic of Tajikistan on Political Parties (13 Nov. 1998), available at <http://www.icnl.org/research/library/files/Tajikistan/POLITICALPARTIES.pdf>.

²⁶ *See Freedom in the World 2016*, *supra* note 2.

future activities of the IRPT were banned. To this day, distribution of newspapers, videos, audio recordings, literature, and leaflets connected to the IRPT is prohibited.²⁷

II. Human Rights in Tajikistan

i. Freedom of expression

The Tajik Constitution recognizes citizens' freedom of expression and prohibits state censorship.²⁸ Domestic legislation, including the 1996 Law on Television and Broadcasting, the 2008 Law on Access to Information, and the 2013 Law on Periodical Print and Other Mass Media, prohibit state interference, censorship, and persecution for criticism. However, Tajikistan's Criminal Code criminalizes insulting the President and state officials.²⁹ In November 2016, President Rahmon signed a law that made insulting or defaming the president a crime punishable by up to five years in prison. National legislation concerning terrorism and extremism has further curtailed the exercise of freedom of expression in Tajikistan.³⁰

The Licensing Committee, a subgroup within the State Committee on Television and Radio that issues production licenses to state-owned and independent media companies, has used its power against independent media outlets critical of the government by withholding or revoking licenses to silence dissent.³¹ Four state-owned television and radio stations are the only media outlets broadcasting nationwide, effectively dominating the broadcast media.³²

This government control over the media has effectively silenced political opposition. For example, during the 2015 parliamentary elections, authorities barred journalists from polling stations.³³ Opposition politicians had limited or no access to state-run television.³⁴ The government gave opposition parties minimal broadcast time to express their political views,³⁵ while the president's party had numerous opportunities to broadcast its message.³⁶

²⁷ *Tajikistan's Terror Group List Just Got Bigger*, The Diplomat (30 Sept. 2015), available at <http://thediplomat.com/2015/09/tajikistans-terror-group-list-just-got-bigger/>. The Government has a history of using similar tactics to oppress opposition parties. For example, the Government sentenced Zayd Saidov to 26 years in prison after he formed an opposition party in 2013. And it banned a small opposition party, Group 24, in October 2014. *Trouble in Tajikistan*, Al Jazeera (5 Nov. 2015), available at <http://www.aljazeera.com/indepth/features/2015/11/trouble-tajikistan-151104085616528.html>.

²⁸ *Constitution of the Republic of Tajikistan*, Article 30, available at <http://www.wipo.int/edocs/lexdocs/laws/en/tj/tj001en.pdf>.

²⁹ *Criminal Code of the Republic of Tajikistan*, Articles 137 and 330, available at <http://www.legislationline.org/download/action/download/id/1707/file/207b8150765af2c85ad6f5bb8a44.htm/preview> (unofficial) (hereinafter, Tajik Criminal Code)

³⁰ 2017 Special Rapporteur Report, ¶ 16.

³¹ *Id.*, ¶ 25.

³² *Although Tajikistan's Parliamentary Elections Provided Some Political Alternatives, Campaign Space was Restricted and a Fair Count Could Not be Guaranteed, International Observers Say*, Organization for Security and Co-operation in Europe (2 March 2015), available at <http://www.osce.org/odihr/elections/tajikistan/143311>.

³³ *Tajikistan: Freedom of the Press 2016*, Freedom House, available at <https://freedomhouse.org/report/freedom-press/2016/tajikistan>.

³⁴ The parliamentary election laws grant each nationwide list 40 minutes and each single-mandate candidate 20 minutes of free airtime on state-owned television or radio. However, single-mandate candidates could not use regional or local state media to air their campaign broadcasts. The Commission for Elections and Referenda (CCER) decreed that all the free airtime for nationwide lists would be shown on *TV Shabakai 1* in slots well in advance of election day (the slots were allocated between 28 January 2015 and 6 February 2015). See *Tajikistan, Parliamentary Elections, 1 March 2015: Final Report*, Organization for Security and Co-operation in Europe (15 May 2015), pg. 13.

³⁵ The IRPT used only 18 minutes and requested to use the remainder to broadcast one-minute clips; an approach originally approved by the CCER. The State Committee on Television and Radio prevented the broadcasting of the IRPT's clips on the grounds that they had not been produced by a licensed audio-visual production company and that their content did not comply with the rules on conducting a campaign. Consequently, the IRPT was unable to campaign using its preferred

The government has firm control over social media. During 2015, the government restricted access to websites such as Facebook and YouTube, and restricted text messaging.³⁷ A 2014 amendment to the Tajik law on “emergency situations” gave the government the power to limit use of recording equipment and mobile and internet networks. That amendment also permitted the government to censor independent media during emergencies.³⁸ Legislation adopted in November 2015 increased restrictions by allowing the State Committee for National Security to block access to internet and cell phone services during anti-terrorism operations, extending throughout the entire country if necessary.³⁹ In November 2016, Presidential Decree 765 was issued, which created a “Single Communications Switching Centre” that allows the government complete control over all domestic communications, without legal safeguards.⁴⁰ The Switching Center requires that all internet and mobile communications be run through a single, state-owned telecom provider.⁴¹

Journalists are commonly subjected to pressure such as insults and humiliation on social media, and those who speak out are harassed and threatened by state agents. In November 2016, Indem, a think tank in Dushanbe announced that it been forced to close the two media outlets it managed because “conditions no longer exist for independent media and free journalism.”⁴² In December 2017, authorities arrested Khayrullo Mirsaidov, a well-known independent journalist and head of a local comedy troupe in Tajikistan’s northern Sughd region. The regional Prosecutor General’s office arrested him after he voluntarily appeared at the Prosecutor General’s office for questioning. The charges were brought after Mirsaidov appealed to Tajikistan’s president to crack down on corruption by local authorities. On 11 July 2018 Mirsaidov was sentenced to 12 years in prison for embezzlement, forging documents, and providing false testimony.⁴³ He was released from prison on 22 August 2018 after his sentence was commuted to a fine and community service.⁴⁴

ii. Lack of freedom of association and participation in public affairs

The government has severely curtailed the exercise of freedoms of association and participation in public affairs, particularly following the parliamentary election of 2015. The PDP-controlled government dominates the political process, using state-owned media to limit

method and instead had to use its remaining time in a single 20-minute slot on February 24. Outside the free airtime, the state broadcast media did not cover parties’ political platforms or activities and no media organized debates among contestants. *Id.* at pgs. 17-18.

³⁶ There was a clear lack of balance in the very limited amount of political coverage in broadcast media. Less than 10 percent of current affairs programming covered political issues. The three state-owned television stations allocated 48, 19, and 30 percent of their news and current affairs programming to President Rahmon, the Government, and the CCER, respectively. *Id.* at pg. 18.

³⁷ *Spotlight: Fundamental Rights in Central Asia*, International Partnership for Human Rights (Dec. 2015), pg. 3, available at <http://iphronline.org/wp-content/uploads/2015/12/Tajikistan-fundamental-rights-overview-December-2015.pdf>.

³⁸ *Tajikistan: Freedom of the Press 2016*, *supra* note 33.

³⁹ *Spotlight: Fundamental Rights in Central Asia*, *supra* note 37, pg. 4.

⁴⁰ *RSF Reinforces Alliance with Partner in Tajikistan*, Reporters Without Borders (28 Nov. 2016), available at <https://rsf.org/en/news/rsf-reinforces-alliance-partner-tajikistan>.

⁴¹ *Id.*

⁴² *Tajikistan: Another News Outlet Bites the Dust*, EurasiaNet (14 Nov. 2016), available at <https://eurasianet.org/tajikistan-another-news-outlet-bites-dust>.

⁴³ *Tajikistan Issues 12-Year Sentence to Whistleblower Journalist*, The Diplomat (11 July 2018), available at <https://thediplomat.com/2018/07/tajikistan-issues-12-year-sentence-to-whistleblower-journalist/>.

⁴⁴ *Tajikistan frees journalist and comedian Khayrullo Mirsaidov*, Deutsche Welle (22 August 2018), available at <https://www.dw.com/en/tajikistan-frees-journalist-and-comedian-khayrullo-mirsaidov/a-45188086>.

political coverage. The party also implements various other restrictions on voting or political participation—up to and including harassing or imprisoning opposition party members.

The result of this repression is a limited number of independent political parties, and almost no opposition. In 2015, there were eight registered political parties, but only three were independent of the government.⁴⁵ The ban on the IRPT in September 2015 left only two.⁴⁶ Although the 1997 peace agreement which ended the civil war guaranteed 30 percent of senior government posts to opposition parties, this guarantee has never been honored.⁴⁷

The government has also targeted non-governmental organizations (NGOs) that focus on human rights. In 2015, state agencies initiated investigations into certain key NGOs, demanding that they turn over financial documents and fining them for undefined tax regulations.⁴⁸ For example, the Bureau on Human Rights and Rule of Law was fined approximately \$6,000 for violating undefined tax regulations after receiving an official request to release all financial documents between 2010 and 2015 to Tajik authorities.⁴⁹

The government has also used violence to suppress the rights political association; for instance in late 2016, government security services were reportedly detaining and interrogating peaceful protesters and breaking up groups of protesters with threats of violence.⁵⁰

iii. Lack of judicial independence

The Tajik judiciary suffers from improper political influence, lack of resources, and an inability to protect the due process rights of citizens. President Rahmon and his administration exert undue influence over the judiciary. The president possesses the power to appoint and dismiss judges, with few constitutional checks and fewer political checks to stop him. He also holds the power to appoint and dismiss prosecutors; as a result, government officials are rarely prosecuted for human rights abuses.⁵¹ Moreover, judicial proceedings in Tajikistan are riddled with corruption. Reports of bribery are common—an unsurprising effect of the low wages afforded to judges and prosecutors.⁵² Although trials are supposed to be public, the government has conducted politically motivated court cases behind closed doors on the pretext that national security was implicated.⁵³

The Tajik judiciary also lacks the resources it needs to function effectively as an independent branch of government. This begins at the bottom, in the country's legal education system: Law schools lack funding, textbooks, or any mechanism by which they can offer its students a practical education. Instead, the schools provide mainly a theoretical introduction to the study and practice of law.⁵⁴ The judiciary is not considered a prestigious career path. Judges

⁴⁵ *Tajikistan 2015 Human Rights Report*, U.S. Department of State, available at <https://www.state.gov/documents/organization/253189.pdf>, pg. 15 (hereinafter *Tajikistan 2015 Human Rights Report*).

⁴⁶ *Id.*

⁴⁷ *Id.*, at pg. 12.

⁴⁸ *Tajikistan 2015 Human Rights Report*, pg. 12.

⁴⁹ *Id.*

⁵⁰ See, e.g., *Tajikistan: Abuse of Dissidents' Families*, Human Rights Watch (20 Dec. 2016), available at <https://www.hrw.org/news/2016/12/20/tajikistan-abuse-dissidents-families>.

⁵¹ *Tajikistan 2014 Human Rights Report*, U.S. Department of State, available at <https://www.state.gov/documents/organization/236864.pdf>, pg. 7.

⁵² *Id.*, pg. 8

⁵³ *Id.*

⁵⁴ *Judicial Reform Index for Tajikistan*, American Bar Association (Dec. 2008), available at http://www.americanbar.org/content/dam/aba/directories/roli/tajikistan/tajikistan_jri_12_2008_en.authcheckdam.pdf.

are paid very little—and defense counsel even less—leaving them vulnerable to corruption and bribery.⁵⁵ Moreover, the Tajik judiciary lacks the resources to calendar, manage, or adjudicate cases effectively.⁵⁶

As a result, citizens are denied the due process protections enumerated by the Constitution. Arbitrary arrests are commonplace.⁵⁷ There is no requirement of warrants for arrest, which allows police or security officials license to arrest or detain citizens with little to no immediate oversight. Although the government typically provides a rationale for arrests, reports of falsified charges abound. In addition, detainees are often not afforded the right to promptly challenge their detention before a judicial office.⁵⁸

III. Methods of Transnational Repression

The Central Asian Political Exiles database maintained by the University of Exeter documents extra-territorial security measures taken by Central Asian states and the human rights threats abuses faced by individuals in exile.⁵⁹ The database includes 55 individuals from Tajikistan who have faced some level of harassment while living abroad, the vast majority of these incidents occurring after 2015.

The following section details ways in which the Tajik government has targeted dissidents living abroad and examines specific cases of harassment, detention, and physical violence.

a. Abuse of INTERPOL

Founded in 1923 and based in Lyon, France, INTERPOL is the world's largest police organization with 194 member states.⁶⁰ Although it is not a human rights organization, respect for human rights is codified in INTERPOL's Constitution. Article 2 establishes the organization's aims as ensuring and promoting "the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the Universal Declaration of Human Rights." Article 3 goes on to state that it is "strictly forbidden for the Organization to undertake any intervention or activities of a political...character."⁶¹

One of INTERPOL's main tools to facilitate cooperation among national police authorities is the notice system. Notices are requests for cooperation or alerts disseminated among national police authorities through INTERPOL.⁶² The notices are color-coded, depending on the type of alert. Red Notices are requests from INTERPOL member states that national police authorities "seek the location of a wanted person and his/her detention, arrest or restriction of movement for the purpose of extradition, surrender, or similar lawful action."⁶³ With the spread of globalization and the growth of transnational crimes, INTERPOL alerts have increased rapidly over the past decade - from 2,343 Red

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Central Asian Political Exiles*, University of Exeter, available at <https://excas.net/exiles/>.

⁶⁰ *About Us*, INTERPOL, available at <https://www.interpol.int/About-INTERPOL/Overview>.

⁶¹ *Constitution*, INTERPOL, available at <https://www.interpol.int/About-INTERPOL/Legal-materials/The-Constitution>.

⁶² *Dismantling the Tools of Oppression: Ending the Misuse of INTERPOL*, Fair Trials International (Oct. 2018), pg. 10, available at https://www.fairtrials.org/sites/default/files/publication_pdf/Dismantling%20the%20tools%20of%20oppression.pdf (hereinafter "*Dismantling the Tools of Oppression*").

⁶³ *Rules on the Processing of Data*, INTERPOL, Article 82.

Notices issued in 2005 to 12,787 issued in 2016, with approximately 48,535 in circulation as of October 2018.⁶⁴

The increase of Red Notices may also be partially attributed to abuse of the system by authoritarian governments. Multiple deficiencies have been identified in INTERPOL's alert system, including a lack of transparency in the review system and an ineffective appeal process.⁶⁵ These deficiencies have allowed governments to issue politically motivated Red Notices.

Tajikistan has issued Red Notices for at least six government critics.⁶⁶ To date, Tajikistan has never successfully extradited an individual on a Red Notice. However, the issuance of Red Notice can be terribly disruptive to an individual's life in other ways. For example, individuals may not wish to travel under threat of arrest. Public Red Notices may also adversely impact an individual's attempt to seek employment, obtain loans, or open a bank account.⁶⁷

i. Muhiddin Kabiri

Muhiddin Kabiri is the leader of the IRPT. In March 2015, the IRPT suffered a historic defeat in the parliamentary elections, garnering only 1.5% of the vote and leaving it with no seats in parliament for the first time in 15 years. Shortly thereafter, Kabiri left Tajikistan for an undisclosed third country amongst speculation that the government would move quickly to shut down the IRPT, as it had with other opposition parties.⁶⁸ Tajikistan issued a Red Notice for Kabiri in September 2016. In March 2018, Interpol rescinded the alert.⁶⁹

ii. Mirzorakhim Kuzov

Mirzorakhim Kuzov is a senior leader of the IRPT. He was detained on 9 October 2017 by Greek police at passport control in Athens International Airport as he was in transit to Iran after attending the OSCE's Human Dimension Implementation Meeting in Warsaw, Poland.⁷⁰ Kuzov left Tajikistan in September 2015; he had been in hiding in a third country for the last two years, before attending the OSCE conference. In August 2017, Kuzov's family members fled Tajikistan, following nearly two years of continuous harassment and repeated interrogations by Tajik security services.⁷¹ Tajik authorities charged Kuzov with various crimes of "extremism" under Tajikistan's criminal code including "public calls for carrying out extremist activity" and "organizing an extremist community."⁷² On 29 November 2017, a Greek court denied Tajik's request for extradition and ordered Kuzov's release, ruling that the Red Notice was politically motivated.⁷³

b. Harassment of family members

⁶⁴ *Dismantling the Tools of Oppression*, *supra* note 62, pg. 6.

⁶⁵ *Id.*, pgs. 17-21.

⁶⁶ Edward Lemon, "From Moscow to Madrid: Governing Security Threats Beyond Tajikistan's Borders", *Tajikistan on the move: statebuilding and societal transformations*. Ed. Marlene Laruelle. Lanham : Lexington Books, (2018), pg. 75 (hereinafter "*From Moscow to Madrid*").

⁶⁷ *Dismantling the Tools of Oppression*, *supra* note 62, pg. 13.

⁶⁸ *Tajikistan's Islamic Renaissance Party On Life Support*, Radio Free Europe/Radio Liberty (3 March 2015), available at <https://www.rferl.org/a/tajikistan-islamic-renaissance-party-on-the-ropes/26880001.html>.

⁶⁹ *Tajik opposition leader says removed from Interpol wanted list*, Reuters (2 March 2018), available at <https://www.reuters.com/article/us-tajikistan-opposition-interpol/tajik-opposition-leader-says-removed-from-interpol-wanted-list-idUSKCN1GE1WI>.

⁷⁰ *Tajikistan uses Interpol red notice on Mirzorahim Kuzov*, Reuters (28 Oct. 2017), available at

<https://www.aljazeera.com/news/2017/10/tajikistan-interpol-red-notice-mirzorahim-kuzov-171026132725693.html>.

⁷¹ *Greece: Tajik Activist Faces Extradition*, Human Rights Watch (12 Oct. 2017), available at <https://www.hrw.org/news/2017/10/12/greece-tajik-activist-faces-extradition>.

⁷² *Id.*

⁷³ *Greece refuses handover of Tajik political activist*, Fergana News (1 Dec. 2017), available at <http://enews.fergananeews.com/news.php?id=3629&mode=snews>.

When the Tajik government is unable to directly confront dissidents living abroad, they have been known to target relatives who still remain in the country. Not only have family members of dissidents been imprisoned, but the threat of imprisonment has coerced dissidents to return to Tajikistan and face prosecution.

i. Shukhrati Rahmatullo

Shukhrati Rahmatullo is a prominent Tajik journalist based in Turkey with the opposition TV station Payom.net. In early December 2016, prison staff retaliated against Rahmatullo's father, Rajab, a senior IRPT leader who is serving a 28 year prison sentence. Rajab was placed in solitary confinement and badly beaten. He was informed the punishment was related to his son's reporting and that "if your son stays quiet, we will stop."⁷⁴ Rahmatullo's mother was also detained by Tajik security services for several days and warned that her son should end his journalism career. Rahmatullo himself faced numerous death threats.⁷⁵

ii. Vaisiddin Odinaev

Vaisiddin Odinaev is a civil society activist based in Western Europe. His activities include peaceful online activism to support democratic reform in Tajikistan. His brother is Ehson Odinaev, a prominent blogger with Group 24, who disappeared in St. Petersburg in 2015.⁷⁶ On 1 December 2016, Odinaev participated in a peaceful protest outside a Prague castle, where President Rahmon was meeting Czech president Milos Zeman. Allegedly, Tajik security personnel dressed as civilians approached the protestors and threatened to kill them if the protest did not cease.⁷⁷ Five days later, Tajik security service officers detained Odinaev's 75 year old grandfather for five hours, interrogating him about his grandson's activities.⁷⁸

iii. Umedjon Salikov

Umedjon Salikov is a Tajik citizen who was residing in Russia in 2014. The Tajik government accused Salikhov of membership in Group 24 and using social media sites to recruit young people to join Group 24. The government also accused him of insulting the president by stating that President Rahmon had sold land to China.⁷⁹ Salikhov agreed to return to Tajikistan after Tajik security services threatened to prosecute his relatives. He was immediately arrested upon his arrival in Dushanbe in October 2014. On 4 March 2015, he was sentenced to 17 years and six months in prison on various extremism charges.⁸⁰

iv. Sobir Valiev

Sobir Valiev is an opposition politician who was the deputy head of the Congress of Constructive Forces of Tajikistan and later the deputy head of Group 24. In 2014, after Valiev publicly criticized the government via various internet platforms, including YouTube, Tajik police and security services began pursuing him and harassing his family members in Dushanbe. In late 2014 and 2015, Valiev's father and wife were interrogated by security services, who threatened serious consequences if he did not return to Tajikistan. At that time, Valiev was living in Kyrgyzstan, having obtained Kyrgyz citizenship, and was frequently traveling to Turkey for business. On 14 March 2015, representatives of Tajikistan's Internal Affairs Ministry tried to summon Valiev for an interrogation in Dushanbe, even though he was living outside the country. A few days later, the word "traitor" was spray painted on the walls of Valiev's family home. In order to avoid further harassment, his family fled to Turkey. On 11 August 2015, at the request of the Tajik government, Moldovan migration police arrested Valiev in Chisinau. Tajik authorities had requested his extradition on charges of "public calls for carrying out extremist activity and "organizing an extremist community." Valiev was released after

⁷⁴ *Tajikistan: Abuse of Dissidents' Families*, Human Rights Watch (20 Dec. 2016), available at <https://www.hrw.org/news/2016/12/20/tajikistan-abuse-dissidents-families>.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Tajikistan: Severe Crackdown on Political Opposition*, *supra* note 5

⁸⁰ *Id.*

international pressure and eventually settled in Poland.⁸¹ Jannat Khamzaeva, Valiev's wife, was arrested in Kyrgyzstan in October 2016, allegedly to be questioned as a witness in a criminal case against her husband who was accused of illegal border crossing and forging a passport. She was released after being detained for 22 hours.⁸²

c. Extradition and forced removal

In instances where Red Notices or coercion fail, Tajikistan has worked with third party countries to facilitate extradition or forcibly transfer dissidents back to Tajikistan.

i. Khurshed Odineyev

Khurshed Odineyev is a Tajik citizen who lived in Russia. In the fall of 2016 he was detained by Russian officials at the request of Tajikistan, which alleged he was recruiting mercenaries. In October 2017, the European Court of Human Rights issued a ruling which prohibited Odineyev's extradition to Tajikistan on the grounds that he would be at risk of torture. Two weeks before his detention was set to expire he was taken from a pre-trial detention center in Belgorod, a province on the northern border of Ukraine. He was blindfolded, duct tape was put over his mouth, and he was beaten before a bag was put over his head and he was placed in the trunk of a car. Odineyev's assailants drove him over the border and deposited him in Ukraine. Odineyev was able to find his way back to Russia and on 4 November 2017, he was arrested again. On 29 November 2017, Russia extradited Odineyev to Tajikistan, in contravention of the European Court decision.⁸³

ii. Namunjon Sharipov

Namunjon Sharipov is a high-ranking IRPT member who formerly chaired the party's committee in the Sughd region. He settled in Istanbul in August 2015 where he operated a teahouse. According to Sharipov's son, an official from the Tajik embassy in Istanbul visited Sharipov on three consecutive days in February 2018, encouraging him to return voluntarily to Tajikistan, at one meeting offering financial incentives. On the fourth day, Turkish police detained Sharipov on the street outside the tea house and took him to Istanbul's Kumkapi removal center. Once there, Sharipov was informed that Tajikistan was seeking his arrest on terrorism charges but that he was not facing imminent deportation to Tajikistan.⁸⁴ Sharipov spent 11 days in the detention center. On 16 February 2018, Turkish officials told Sharipov's lawyer that he would be able to purchase a one-way plane ticket for Sharipov to a country of his choosing that did not require a visa. The officials then told the lawyer he should pick up Sharipov in three days. When the lawyer returned, Turkish officials said that two Tajik consular officials had taken Sharipov into custody three days earlier, driven him to the airport, and forced him onto a plane bound for Dushanbe. No documentation was provided to the lawyer regarding Sharipov's removal.⁸⁵ On 20 February, Sharipov emerged in Dushanbe. He called Radio Free Europe/Radio Liberty's Tajik Service, known locally as Ozodi, to say he had "voluntarily returned" to Tajikistan. He said he planned to visit the northern town of Isfara and then return to Istanbul in "about a week."⁸⁶ He has not returned to Turkey and is believed to still be in detention in Dushanbe.

⁸¹ *Tajikistan: Severe Crackdown on Political Opposition*, *supra* note 5

⁸² *Kyrgyzstan Releases Wife Of Tajik Opposition Activist*, Radio Free Europe/Radio Liberty (3 Oct. 2016), available at <https://www.rferl.org/a/kyrgyzstan-wife-tajik-oppositionist-freed-khamzaeva-valiev/28028247.html>.

⁸³ *Supreme Court of Russia ignores European Court of Human Rights ban on extraditing Tajik citizen*, Fergana News (29 Nov. 2017), available at <http://enews.fergananews.com/news.php?id=3625&mode=news>.

⁸⁴ *Tajikistan: Activist Forcibly Returned From Turkey*, Human Rights Watch (20 Feb. 2018), available at <https://www.hrw.org/news/2018/02/20/tajikistan-activist-forcibly-returned-turkey>

⁸⁵ *Id.*

⁸⁶ *Rare Triumph For Tajikistan's IRPT, As Leader Removed From Interpol's 'Red Notice'*, Radio Free Europe/.Radio Liberty (3 March 2018), available at <https://www.rferl.org/a/tajikistan-islamic-renaissance-party-leader-kabiri-interpol/29076658.html>.

iii. Sharofiddin Gadoev

Sharofiddin Gadoev is a member of Tajikistan's opposition National Alliance and the former deputy head of Group 24. He was a cousin of Umarali Quvvatov, the former leader of Group 24.⁸⁷ Gadoev has lived in the Netherlands since 2015, where he has refugee status.⁸⁸ On 13 February 2019, Gadoev travelled from Amsterdam to Moscow to brief officials from Russia's Security Council on political developments in Tajikistan. The following afternoon, Russian security service officers picked Gadoev up at his hotel to escort him to the meeting. During the drive, Gadoev was transferred to a different car and driven to Moscow's Domodedovo airport. He was beaten by security service officers while en route to the airport.⁸⁹ Gadoev was handed over to Tajik security service officers, who beat him, put a sack on his head, and placed him on a flight to Dushanbe. He was delivered straight to the Interior Ministry the next day where he was offered three options: execution, a prison sentence of 25 years to life, or he could cooperate with the authorities and alleged the Muhiddin Kabiri was financed by Iran and Western human rights groups.⁹⁰ On 20 February the government announced he was charged with possession of contraband and forgery.⁹¹ Gadoev was released from custody and allowed to return to the Netherlands on 2 March.⁹²

d. Physical attacks

In extreme cases, Tajik dissidents have been the victims of violent physical attacks, resulting in injury or death.

i. Maksud Ibragimov

Maksud Ibragimov is the founder of the Youth for Revival of Tajikistan opposition party. In 2004, he fled to Russia where he denounced his Tajik citizenship and became a Russian citizen. On 26 November 2014, Ibragimov was stabbed in Moscow and nearly died. In January 2015, he was arrested by officials from the Ministry of Internal Affairs. The officials brought him to the prosecutor's office where he filed an official complaint about the attack he endured. Immediately after leaving the prosecutor's office, Ibragimov was abducted by two unidentified men. They extradited him back to Tajikistan where he was sentenced to 17 years in prison for "incitement of revolution", extremism, and participation in a criminal organization.⁹³

ii. Umarali Quvvatov

Umarali Quvvatov founded the opposition party Group 24 in 2012 after going into exile in Russia. Quvvatov left Russia after Tajikistan requested his extradition.⁹⁴ He settled in the United Arab Emirates where he was detained in December 2012 in Dubai at the request of the Tajik government, allegedly for embezzling \$1.2 million. He was released in September 2013, after being pardoned by Dubai.⁹⁵ On 9 October 2014, the Tajik Supreme Court declared Group 24 a terrorist organization, making membership or association with the party a criminal offense. The ruling came the day before a mass, peaceful demonstration in Dushanbe, with Quvvatov publicly supported. The prosecutor general issued a statement accusing Group 24 of plotting a coup, causing mass disorder, and spreading

⁸⁷ *Tajikistan: Activist Forcibly Returned from Russia*, Norwegian Helsinki Committee (24 Feb. 2019), available at <https://www.nhc.no/en/tajikistan-activist-forcibly-returned-from-russia/>.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Tajikistan: Opposition activist reveals details of state-ordered kidnapping*, EurasiaNet (6 March 2019), available at <https://eurasianet.org/tajikistan-opposition-activist-reveals-details-of-state-ordered-kidnapping>.

⁹¹ *Tajikistan: Activist Forcibly Returned from Russia*, *supra* note 87.

⁹² *Tajikistan: Opposition activist reveals details of state-ordered kidnapping*, *supra* note 90.

⁹³ *Tajikistan officially reported that Maksud Ibragimov is sentenced to 17 years of imprisonment*, Association for Human Rights in Central Asia (27 July 2015), available at <https://ahrca.eu/tadjikistan/torture-prevention/807-tajikistan-officially-reported-that-maksud-ibragimov-is-sentenced-to-17-years-of-imprisonment>.

⁹⁴ *Tajik opposition leader Umarali Kuvvatov shot dead in Istanbul*, The Guardian (6 March 2015), available at <https://www.theguardian.com/world/2015/mar/06/tajik-opposition-leader-umarali-kuvvatov-shot-dead-in-istanbul>.

⁹⁵ *Tajikistan Opposition Leader Kuvvatov Facing New Dangers*, Freedom House (21 Jan. 2015), available at https://freedomhouse.org/article/tajikistan-opposition-leader-kuvvatov-facing-new-dangers#.VPlxVfmG_Ns.

extremist materials.⁹⁶ Quvvatov eventually settled in Turkey where on 20 December 2014, Turkish authorities arrested him for an alleged visa violation. However, the authorities ultimately refused to extradite him to Tajikistan.⁹⁷ On the evening of 5 March 2015, Quvvatov, his wife Kumriniso Hafizova, and their two sons were having dinner at the home of Sulaymon Qayumov, a fellow Tajik expatriate who had settled in Turkey three months earlier.⁹⁸ During the course of the meal, Hafizova and the children became ill after consuming food given to them by Qayumov. The family stepped outside to get fresh air and wait for an ambulance. At approximately 10:30pm, an unknown assailant approached Quvvatov and killed him with single gunshot to the back of the head.⁹⁹ Hafizova and her sons were taken to the hospital where they were treated for food poisoning.¹⁰⁰ The Istanbul-based Council of Forensic medicine later confirmed that clozapine – a tranquilizer used to treat schizophrenia – was found in Quvvatov’s blood.¹⁰¹ Qayumov fled to Almaty, Kazakhstan, but was returned to Istanbul by Kazakh authorities. He was indicted with six other individuals for Quvvatov’s murder, but was the only individual tried for the crime.¹⁰² In February 2016, Qayumov was sentenced to life in prison for allegedly organizing the killing.¹⁰³

IV. Legal Obligations

States are obliged to protect the human rights of all persons, including non-citizens, within the state’s effective control.¹⁰⁴ This obligation to protect requires that a state ensures protection for individuals and groups, not only from abuses by its own agents,¹⁰⁵ but also from abuses perpetrated by third party actors.¹⁰⁶ Failing to safeguard an individual’s rights by “permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities” may lead to attribution of such violation to the state itself.¹⁰⁷

⁹⁶ *SMS Services Down In Tajikistan After Protest Calls*, Radio Free Europe/Radio Liberty (10 Oct. 2014), available at <https://www.rferl.org/a/tajikistan-sms-internet-group-24-quvatov-phone-message-blockage-dushanbe/26630390.html>.

⁹⁷ *Vocal critic of Tajik president shot dead in Istanbul*, Reuters (6 March 2015), available at <https://www.reuters.com/article/us-turkey-tajikistan/vocal-critic-of-tajik-president-shot-dead-in-istanbul-idUSKBN0M20M920150306>.

⁹⁸ *Tajik Opposition Tycoon Quvatov Killed In Istanbul*, Radio Free Europe/Radio Liberty (6 March 2015), available at <https://www.rferl.org/a/tajikistan-opposition-quvatov-killing/26885021.html>.

⁹⁹ *Id.*

¹⁰⁰ *Three Arrested As Tajik Opposition Tycoon Buried In Istanbul*, Radio Free Europe/ Radio Liberty (9 March), available at <https://www.rferl.org/a/slain-tajik-opposition-tycoon-to-be-buried-in-istanbul/26889471.html>.

¹⁰¹ *Severe Crackdown on Political Opposition*, Norwegian Helsinki Committee (17 Feb. 2016), available at <https://www.nhc.no/en/severe-crackdown-on-political-opposition-2/>.

¹⁰² *Id.*

¹⁰³ *Turkish court sentences killer of Tajik opposition leader to life imprisonment*, Asia Plus (29 Feb. 2016), available at <https://www.news.tj/en/news/turkish-court-sentences-killer-tajik-opposition-leader-life-imprisonment>.

¹⁰⁴ Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on State Parties to the Covenant*, CCPR/C/21/Rev.1/Add. 1326 May 2004, ¶ 10, (29 March 2004). See also, UN Office of the High Commissioner of Human Rights, *International Human Rights Law*, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>.

¹⁰⁵ While most of the harassment discussed in this section stems from Azerbaijani agents in Georgia, some harassment may be directly attributable to Georgian agents, as was likely the case with the car following and surveilling Gulnur Kazimova, which was later revealed to belong to Georgian police. Georgia is of course obliged not to harass individuals on its territory in a way which may infringe on their fundamental rights. See Article 2(1) of the ICCPR.

¹⁰⁶ Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on State Parties to the Covenant*, CCPR/C/21/Rev.1/Add. 1326 May 2004, ¶ 8, (29 March 2004) (“[T]he positive obligations on states parties to ensure Covenant rights will only be fully discharged if individuals are protected by the state, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons or entities.”).

¹⁰⁷ Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on State Parties to the Covenant*, CCPR/C/21/Rev.1/Add. 1326 May 2004, ¶ 8, (29 March 2004).

The European Court of Human Rights has ruled on at least 12 cases involving Tajik citizens detained abroad pending extradition orders.¹⁰⁸ An additional seven cases await decisions from the Court.¹⁰⁹ The Court has repeatedly ruled that extraditing an individual to Tajikistan would violate Article 3 of European Convention on Human Rights, which prohibits torture or inhuman or degrading treatment or punishment. The Court has also determined that torture is widespread in Tajikistan and has rejected the government's assurances to the contrary.

Aggressive harassment by a third party may violate an individual's rights to freedom of expression, religion, assembly, association, etc. For example, in order to safeguard the free exercise of religion, the UN General Assembly has urged states to provide protection to individuals from third party acts of intimidation or coercion.¹¹⁰ The Human Rights Committee has confirmed that states' obligation to ensure free expression under Article 19 of the ICCPR requires states "to ensure that persons are protected from any acts by private persons or entities that would impair the enjoyment of the freedoms of opinion and expression to the extent that these Covenant rights are amenable to application between private persons or entities."¹¹¹ Where significant acts of intimidation discourage individuals from freely exercising these rights, states should take measures to protect individuals from such harassment.

Beyond harassment, states are also obliged to protect individuals from criminal acts by third parties – particularly when an individual's rights to life or freedom from torture might be at risk.¹¹² For instance, in the case of *Gongadze v. Ukraine*, the European Court considered whether Ukraine's failure to take measures to protect a journalist that reported surveillance and who was subsequently disappeared and murdered constituted a substantive violation of its obligation to protect the journalist's right to life under Article 2 of the ECHR. The European Court found that states have a primary duty to "[put] in place effective criminal-law provisions to deter the commission of offences against the person, backed up by law enforcement machinery for the prevention, suppression and punishment of breaches of such provisions. [This duty] also extends, in appropriate circumstances, to a positive obligation on the authorities to take preventive operational measures to protect an individual or individuals whose lives are at risk from the criminal acts of another individual."¹¹³ The European Court specified that state liability may arise where the authorities knew or should have known of the existence of a real and immediate risk to an individual's life from the criminal acts of a third party and failed to take protective measures.¹¹⁴

In its General Comment 36, the Human Rights Committee concurred that states are "under a due diligence obligation to undertake reasonable positive measures, which do not impose on them impossible or disproportionate burdens, in response to foreseeable threats to life originating from

¹⁰⁸ See *Nasrulloev v. Russia*, ECtHR, Application No. 656/06; *Khodzhayev v. Russia*, ECtHR, Application No. 52466/08; *Khaydarov v. Russia*, ECtHR, Application No. 21055/09; *Iskandarov v. Russia*, ECtHR, Application No. 17185/05; *Gaforov v. Russia*, ECtHR, Application No. 25404/09; *Savridin Dzhurayev v. Russia*, ECtHR, Application No. 71386/10; *Sidikov v. Russia*, ECtHR, Application No. 73455/11; *Nizomkhon Dzhurayev v. Russia*, ECtHR, Application No. 31890/11; *K.I. v. Russia*, ECtHR, Application No. 58182/14; *B.U. v. Russia*, ECtHR, Application No. 59609/17; *A.S. v. Russia*, ECtHR, Application No. 74677/17; and *A.N. v. Russia*, ECtHR, Application No. 61689/16.

¹⁰⁹ See *K.Z. v. Russia*, ECtHR, Application No. 35960/18; *Buriyev v. Russia*, ECtHR, Application No. 42874/18; *K.T. and Z.K. v. Poland*, ECtHR, Application No. 46697/18; *S.B. v. Russia*, ECtHR, Application No. 65122/17; *I.M. v. Russia*, ECtHR, Application No. 340/18; *M.Z. v. Russia*, ECtHR, Application No. 6646/18; and *S.D. v. Russia*, ECtHR, Application No. 8103/18.

¹¹⁰ *General Assembly Resolution: Combating Defamation of Religion*, UN Doc. A/Res/64/156, ¶ 16, (8 March 2010).

¹¹¹ Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of Opinion and Expression*, UN Doc. No. CCPR/C/GC/34, ¶ 7, (12 Sep. 2011).

¹¹² See e.g., *D.F. v. Latvia*, ECtHR, Application No. 11160/07, ¶ 83, (29 Oct. 2013); *Ahani v. Canada*, UN Doc. CCPR/C/80/D/1051/2002, ¶ 10.7, (2004); Human Rights Committee, *Draft General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the right to life*, ¶ 23, available at <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC36-Article6Righttolife.aspx> ("[Article 6(1)] also implies that state are under an obligation to take appropriate positive measure in order to protect life from all possible threats, including from threats emanating from private persons and entities.").

¹¹³ *Gongadze v. Ukraine*, ECtHR, Application No. 34056/02, ¶ 164, (8 Nov. 2005).

¹¹⁴ *Gongadze v. Ukraine*, ECtHR, Application No. 34056/02, ¶¶ 165-171, (8 Nov. 2005). See also *Osman v. United Kingdom*, ECtHR, Application No. 87/1997/871/1083, ¶ 116, (28 Oct. 1998).

private persons and entities, whose conduct is not attributable to the State.”¹¹⁵ The Human Rights Committee further indicated that special measures of protection may be required for human rights defenders, journalists and other persons in situations of vulnerability.¹¹⁶ Such measures might include the assignment of around-the-clock police protection, the issuance of protection and restraining orders or consented-to protective custody,¹¹⁷ as well as the punishment of perpetrators following a prompt, impartial and comprehensive investigation.¹¹⁸ The European Court has likewise noted that where vulnerable persons are concerned, states should take all steps that can be reasonably expected to prevent such real and immediate risks.¹¹⁹

Moreover, the Human Rights Committee in its Draft Comments has indicated that the state obligation to protect an individual from criminal acts by a third party extends to abuses by a foreign state acting within its territory.¹²⁰ In *Garcia v. Ecuador*, the Human Rights Committee found Ecuador to be liable where it refused to protect an individual against kidnapping from within its territory conducted by police “merely execut[ing] an ‘order’ coming from the Embassy of the United States.”¹²¹ Two of these police later identified themselves as direct agents of the United States.¹²²

Third-party countries where Tajik exiles reside, including Poland, Russia, and Turkey must ensure respect for the exiles’ freedom of speech, association or assembly. Moreover, to the extent that harassment and intimidation presents a real and immediate risk to life, these third-party countries are obligated to take protective measures; this obligation is heightened when the individuals being targeted fall into the vulnerable category of human rights defenders and journalists. The fact that the persecution is carried out by agents of another state acting extra-territorially does not diminish the responsibility of third-party states to protect the human rights of all individuals within its borders.

V. Conclusions and Recommendations

Tajikistan has orchestrated a relentless campaign of harassment and intimidation at dissidents living abroad. Government critics who fled Tajikistan to seek shelter from persecution continue to fear for their well-being and safety. Using international mechanisms, such as INTERPOL, or foreign judiciaries and law enforcement as a proxy, the Tajik regime continues to violate the human rights of its citizens beyond borders.

Tajikistan’s actions constitute a breach of its obligations under international law. The government’s overseas operations violate its citizens’ rights to freedom of expression, association, assembly, and political participation as well as the freedom from arbitrary detention. Furthermore, governments that allow Tajik dissidents to be extradited are complicit in human rights abuses.

¹¹⁵ *General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the right to life*, ¶ 21, available at https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf.

¹¹⁶ *Draft General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the right to life*, ¶ 26, available at <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC36-Article6Righttolife.aspx> (detailing categories of vulnerable persons whom the state should take exceptional measures to protect).

¹¹⁷ *Draft General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the right to life*, ¶ 26, available at <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC36-Article6Righttolife.aspx> (detailing potential measures of protection for vulnerable individuals).

¹¹⁸ Human Rights Committee *Concluding observations on the third periodic report of Paraguay*, UN Doc. No. CCPR/C.PRY/CO/3, ¶ 15, (29 April 2013) (recommending that Peru take steps to ensure that perpetrators are punished for threats and attacks against human rights defenders).

¹¹⁹ *O’Keeffe v. Ireland*, ECtHR, Application No. 35810/09, ¶ 144; *See also, D.F. v. Latvia*, ECtHR, Application No. 11160/07, ¶ 83, (29 Oct. 2013).

¹²⁰ *Draft General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the right to life*, ¶ 25, available at <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/GC36-Article6Righttolife.aspx> (“States parties should also take appropriate measures to protect individuals against deprivations of life by other states operating within their territory.”).

¹²¹ *Garcia v. Ecuador*, UN Doc. No. CCPR/C/43/D/319/1988, ¶¶ 2.2-2.4, 6.1, (1991).

¹²² *Id.* at ¶¶ 2.2.

In order to meet the minimum standard of its international obligations, Tajikistan must immediately cease harassment and intimidation of dissidents living abroad and release all individuals who have been detained on politically motivated charges. In light of this, Freedom Now issues the following recommendations:

To the Government of Tajikistan –

- Immediately end all harassment, intimidation, unauthorized surveillance, arbitrary detention, conviction, and torture of persons peacefully exercising their fundamental human rights, particularly those individuals who reside outside of Tajikistan.
- Immediately and unconditionally release and rehabilitate the civil and political rights of political opposition members, journalists, lawyers, and all other individuals detained under criminal or administrative charges for exercising their fundamental human rights.
- Allow individuals to freely travel outside of Tajikistan.
- Investigate and hold accountable officials who order or effectuate the commission of human rights abuses in violation of domestic or international law.

To Governments of States Where Tajik Nationals Reside –

- Ensure to the maximum extent possible the protection and physical safety of Tajik nationals, among those, political opposition members, human rights defenders, and other dissidents, who reside abroad
- Consult with independent authorities, country experts, and international human rights organizations before acting on extradition requests from the Government of Tajikistan
- Conduct transparent and thorough investigations into any forced removal or physical attacks on Tajik nationals

To Concerned Countries and International Organizations, including the European Union, the Organization for Security Co-operation in Europe, and the United Nations,–

- Seize every opportunity to raise, in public and private, serious concerns about Tajikistan's cross-border human rights violations aimed at Tajik nationals living abroad.
- Seek guarantees from the Government of Tajikistan that it will not seek reprisals against individuals (or family members of individuals) who engage with international organizations.
- Use diplomatic, development aid and trade tools available to condition closer bilateral relationships with Tajikistan on measurable improvement of its record with respect to human rights.
- Designate individuals responsible for the forced removal or physical attack on Tajik nationals abroad for financial sanctions and travel bans.