

## **Access Now and UPRoar Joint-Submission to the United Nations Human Rights Council on the Universal Periodic Review 39th Session Third Cycle for Tajikistan**

25 March 2021

### **About Access Now & UPRoar**

Access Now is an international organisation that works to defend and extend the digital rights of users at risk around the world. Through representation around the world, Access Now provides thought leadership and policy recommendations to the public and private sectors to ensure the continued openness of the internet and the protection of fundamental rights. By combining direct technical support, comprehensive policy engagement, global advocacy, grassroots grantmaking, legal interventions and convenings such as RightsCon, we fight for human rights in the digital age. As an ECOSOC accredited organisation, Access Now routinely engages with the United Nations in support of our mission to extend and defend human rights in the digital age.<sup>1</sup> UPRoar is a global initiative coordinated by Small Media, in collaboration with a network of digital rights organisations, focusing on engagement around the Universal Periodic Review.

### **I. Introduction**

1. The Universal Periodic Review (UPR) is an important UN mechanism aimed at addressing human rights issues across the globe. Access Now and Small Media welcome the opportunity to contribute to Tajikistan's third review cycle.
2. This submission examines the right to freedom of expression, access to information, freedom of peaceful assembly and association and the right to privacy. Specifically, this submission raises concerns regarding the continued erosion of those fundamental rights through internet shutdowns; attacks and harassment of independent media workers, journalists, and human rights defenders; restrictions on NGOs and protest activities; and mass surveillance.

### **II. Follow up from previous review**

3. During Tajikistan's second UPR cycle, a total of 225 recommendations were addressed to Tajikistan. Out of these 225 recommendations, 165 recommendations were supported, including 14 recommendations that addressed the rights to free expression and opinion, privacy, and access to information.<sup>2</sup>

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<sup>1</sup> Access Now, About Us, 2021, <https://www.accessnow.org/>.

<sup>2</sup> UPROAR, Recommendation Directory, <https://tools.uproar.fyi/rec-directory/?cycle=2&offset=0&response=supported&sur=172&topicRight=3%2C22%2C29>.

4. With political opposition eliminated in the country, Tajikistan's President, Emomali Rahmon continues to consolidate his power. Over the last 4 years, Tajikistan's government has intensified its quest to further control independent media, communication services, internet service providers, and online civic space.<sup>3</sup> Despite the existing constitutional protections, recently adopted legislation has broadly impacted the exercise of the rights to freedom of expression and access to information, peaceful assembly and association, and the right to privacy. All the following legislations have provisions that undermine the above-mentioned rights: the Law on Combatting Terrorism, the Law on Fighting against Extremism, the Law on State Secrets, provisions and amendments to the Law on Periodic Press, the Law on Access to Information, and the Law on Martial Law.
5. Since the second cycle, the use of internet and digital media in Tajikistan has increased.

### **III. International, regional, and domestic human rights obligations**

6. As of 4 January 1999, Tajikistan is a state party to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights.<sup>4</sup>
7. Tajikistan is also a member of the Organization for Security and Co-operation in Europe (OSCE),<sup>5</sup> which emphasizes the respect for human rights and fundamental freedoms<sup>6</sup> and promotes the values of freedom of expression and media freedom in particular.<sup>7</sup>
8. Article 30 of the Constitution of Tajikistan guarantees the rights to “freedom of speech, publishing, and the right to use means of mass information” and prohibits “state censorship and prosecution for criticism.”<sup>8</sup> Article 29 of the Constitution also guarantees “the right to take part in meetings, rallies, demonstrations, and peaceful processions prescribed by law.”<sup>9</sup> Further, Article 23 of the Constitution guarantees “privacy of correspondence, telephone conversations, and the postal and communication rights of each person [...] except in cases prescribed by law.” The Article however prohibits “the collection, storage, utilization, and dissemination of information about a person's private life without [their] consent.”

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<sup>3</sup> Central Asian Bureau for Analytical Reporting, A Forbidding Time for Tajikistan's Independent Press, <https://cabar.asia/en/nuriddin-karshiboev-a-forbidding-time-for-tajikistan-s-independent-press-2>.

<sup>4</sup> OHCHR, UN Treaty Body Database, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=171&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=171&Lang=EN).

<sup>5</sup> Organization for Security and Co-operation in Europe (OSCE), Participating States, <https://www.osce.org/participating-states>.

<sup>6</sup> OSCE, Conference on Security and Co-operation in Europe Final Act, 1975, <https://www.osce.org/files/f/documents/5/c/39501.pdf>.

<sup>7</sup> OSCE, Istanbul Document 1999, <https://www.osce.org/files/f/documents/6/5/39569.pdf>.

<sup>8</sup> The Constitution of The Republic of Tajikistan, 1994, <https://www.refworld.org/pdfid/3ae6b50910.pdf>.

<sup>9</sup> Id.

9. Tajikistan's domestic laws also provide for the protection of the right of access to information and for the freedom of the media. Law No. 411 on Access to Information (the Information Law) (2008) "creates legal conditions for the realization of the right of every citizen to free exercise of search and retrieval of information."<sup>10</sup>
10. Tajikistan Law No. 961 on the Periodical Press and other Mass Media (the Media Law) (2013) recognises that international treaties, to which Tajikistan is a party, apply to the regulation of media.<sup>11</sup> Article 2 proclaims that the media in Tajikistan are free and that everyone has "the right to freely express convictions and hold opinions, to impart them in any form through the press and other mass media." It also bans censorship and persecution for criticism and establishes legal recourse for violations of the freedom of media.

#### **IV. Freedom of expression and access to information**

11. Access to the internet in Tajikistan remains a luxury due to the high cost and low penetration rate. The latest World Bank data for Tajikistan shows that only 21.96 percent of the population were using the internet.<sup>12</sup> According to Data Reportal, in January 2021, that number increased to 34.85.<sup>13</sup> The number of social media users in Tajikistan was 10.4 percent of the total population that same month.<sup>14</sup> Despite this, Tajik authorities have resorted to suppressing critics through "large-scale" internet censorship by blocking the flow of online information whenever faced with political difficulties.<sup>15</sup>
12. Even though Tajikistan's laws guarantee freedom of expression and protection of media, Tajikistan remains one of the most repressive countries in the world. The government exercises tight control over most of the media and the publishing resources, such as printing presses, newsprint supplies, and broadcasting facilities, leaving them inaccessible to the few independent media in the country.<sup>16</sup> The state also shuts out independent media and critical voices online through harassment, intimidation, blocking of websites and entire social media platforms and messaging services, as well as implementing complete internet shutdowns.<sup>17</sup>

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<sup>10</sup> The Law of The Republic of Tajikistan on the Right to Access to Information, <https://right2info.org/resources/publications/tajikistan-ati>.

<sup>11</sup> The Law of The Republic of Tajikistan on the Press and Other Mass Media, <http://www.nfoic.org/tajikistan-media-law>; Article 19, Tajikistan: Media Law, [https://www.article19.org/data/files/medialibrary/37717/Tajik\\_Media-Law\\_Final-.pdf](https://www.article19.org/data/files/medialibrary/37717/Tajik_Media-Law_Final-.pdf).

<sup>12</sup> Individuals using the internet (% of population) - Tajikistan, Kyrgyz Republic, Uzbekistan, Kazakhstan, Afghanistan, China, <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=TJ-KG-UZ-KZ-AF-CN>.

<sup>13</sup> DATAREPORTAL, Digital 2021: Tajikistan, <https://datareportal.com/reports/digital-2021-tajikistan>.

<sup>14</sup> Id.

<sup>15</sup> Reporters without borders, Tajikistan turns to Chinese model of large-scale Internet censorship 2018, <https://rsf.org/en/news/tajikistan-turns-chinese-model-large-scale-internet-censorship>.

<sup>16</sup> FreedomHouse, Freedom in the world 2020: Tajikistan, <https://freedomhouse.org/country/tajikistan/freedom-world/2020>.

<sup>17</sup> Id.

13. The government also routinely blocks the most popular anonymizing software and VPN services, making it difficult to circumvent the censorship measures.<sup>18</sup>

### ***Internet shutdowns and censorship in Tajikistan***

14. Tajikistan has a history of selective filtering and blocking of political content during elections, which goes back to the 2006 Presidential elections.<sup>19</sup> Since then, the authorities have enhanced their legal and technical ability to shut down the internet and block websites and online services.
15. Tajikistan's laws authorize the government to block internet services and limit the flow of information during the state of emergency, martial law, or during "counterterrorism operations."<sup>20</sup> The amended Law on the State of Emergency authorizes the government to block mobile services and access to the Internet without a court order following the announcement of a state of emergency. Amendments to the Law on Combating Terrorism adopted in 2015 allow for blocking the Internet and telecommunications systems during "counterterrorism operations," particularly if these mediums are spreading "forbidden information".<sup>21</sup>
16. In 2016, Presidential Decree 765 established the Unified Electronic Communications Switching Center, allowing the government complete control over domestic communications. The Switching Center requires all internet and mobile traffic to be filtered through a network gateway run by state-owned telecommunications company Tojiktelecom.<sup>22</sup> Decree 765 increases the Government's ability to shut down and block services without legal safeguards or obtaining the assistance of service providers.<sup>23</sup>
17. Access Now, the #KeepItOn coalition — a coalition of more than 240 organizations from 105 countries around the world dedicated to fighting internet shutdowns — and other

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<sup>18</sup> Reporters without borders, Tajikistan turns to Chinese model of large-scale Internet censorship 2018, <https://rsf.org/en/news/tajikistan-turns-chinese-model-large-scale-internet-censorship>; Eurasianet, Tajikistan: Authorities somehow find more room for internet censorship, 2021, <https://eurasianet.org/tajikistan-authorities-somehow-find-more-room-for-internet-censorship>.

<sup>19</sup> OpenNet Initiative, Internet Filtering in Tajikistan in 2006-2007, <https://opennet.net/studies/tajikistan2007>.

<sup>20</sup> Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Tajikistan, 2017, [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/Documents/A\\_HRC\\_35\\_22\\_Add\\_2\\_EN.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/Documents/A_HRC_35_22_Add_2_EN.docx); Eurasianet, Tajikistan adopts laws on emergency powers, spying, 2019, <https://eurasianet.org/tajikistan-adopts-laws-on-emergency-powers-spying>.

<sup>21</sup> Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Tajikistan, 2017, [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/Documents/A\\_HRC\\_35\\_22\\_Add\\_2\\_EN.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session35/Documents/A_HRC_35_22_Add_2_EN.docx).

<sup>22</sup> Eurasianet, Tajikistan: Data Gateway Deals Blow to Internet Freedom, 2016, <https://eurasianet.org/tajikistan-data-gateway-deals-blow-to-internet-freedom>.

<sup>23</sup> Order of the Government of the Republic of Tajikistan N° 765, 2015, <https://cis-legislation.com/document.fwx?rgn=82153>.

organizations have also investigated and documented repeated internet shutdowns, blockage of websites and social media platforms in Tajikistan in the past few years:

- a. Popular social media in Tajikistan have been a target of frequent blocking by the local authorities, especially in times of heightened security situation or sensitive content being published that the government doesn't want to be accessible by the local population.<sup>24</sup>
- b. In November 2018, protests in the Gorno-Badakhshan Autonomous Region (GBAO) reportedly triggered localized internet blackouts.<sup>25</sup> This prevented relatives living outside the region to contact their loved ones during this tense political situation.<sup>26</sup> Protests in GBAO, multiple prison riots in 2019<sup>27</sup> and high profile terror attacks in the country have all been followed by blocking of social networks and other online sources of information for the local population.
- c. In March and April of 2019, Facebook was shut down for 15 days.<sup>28</sup> The authorities first throttled social media for a few hours and then resorted to completely blocking Google services, YouTube, Facebook, Instagram, and Twitter in response to a protest.<sup>29</sup>
- d. On September 16, 2020, around 19:40-20:50 local time, there were reports of mobile and fixed line disconnections as well as slowdowns countrywide. During the period of the potential shutdown, Muhiddin Kabiri, president of an outlawed opposition party in Tajikistan, participated in a live-streamed event online at the George Washington University.<sup>30</sup> His party, the Islamic Renaissance Part of Tajikistan, has been declared to be a terrorist organization by the Supreme Court. The government attributed the disruption to a technical failure.<sup>31</sup>

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<sup>24</sup> Radio Free Europe/Radio Liberty, Hundreds Of Websites Reportedly Blocked In Tajikistan, 2014, <https://www.rferl.org/a/tajikistan-internet-atoev-shokirov-blockage-facebook-youtube/26622533.html>

<sup>25</sup> FreedomHouse, Freedom in the world 2020: Tajikistan, <https://freedomhouse.org/country/tajikistan/freedom-world/2020>.

<sup>26</sup> Диалог, В ряде районов Горного Бадахшана отключили интернет, 2018, <http://www.dialog.tj/news/v-ryade-rajonov-gornogo-badakhshana-otklyuchili-internet>.

<sup>27</sup> The Diplomat, Tajikistan's Prison Riot: More Than Meets the Eye, 2019, <https://thediplomat.com/2019/05/tajikistans-prison-riot-more-than-meets-the-eye/>.

<sup>28</sup> Facebook, Transparency; Internet Disruptions, 2019, <https://transparency.facebook.com/internet-disruptions/jan-jun-2019>.

<sup>29</sup> Access Now, The #KeepItOn report on internet shutdowns in 2019, <https://www.accessnow.org/cms/assets/uploads/2020/02/KeepItOn-2019-report-1.pdf>; Eurasianet, Tajikistan: Internet grinds to a halt after president's criticism, 2019, <https://eurasianet.org/tajikistan-internet-grinds-to-a-halt-after-presidents-criticism>.

<sup>30</sup> Радиои Озодӣ, Интернет дар Тоҷикистон як соат "гум шуд" ва касе шарҳ наменидаҳад чаро. ВИДЕО, 2020, [https://www.ozodi.org/a/internet-to-ki-qat-kard/30843354.html?fbclid=IwAR3iBbye1Ex\\_vpumAjq7ovMcOTdOYs8TDv8Xq\\_x9bg76hdu0YSe02lcTh7l](https://www.ozodi.org/a/internet-to-ki-qat-kard/30843354.html?fbclid=IwAR3iBbye1Ex_vpumAjq7ovMcOTdOYs8TDv8Xq_x9bg76hdu0YSe02lcTh7l)

<sup>31</sup> Asia-Plus Media Group, Технические сбои!?. Почему отключали интернет по всему Таджикистану?, 2020, [https://asiaplustj.info/ru/news/tajikistan/society/20200917/tehnicheskie-sboi-pochemu-otklyuchali-internet-po-vsemu-tadzhikistanu?fbclid=IwAR2BoZfW2l-LaR0u7mojbyJ\\_5VNL5lISAlmwgAGYs7wslAeNjXo\\_OUSjCj4](https://asiaplustj.info/ru/news/tajikistan/society/20200917/tehnicheskie-sboi-pochemu-otklyuchali-internet-po-vsemu-tadzhikistanu?fbclid=IwAR2BoZfW2l-LaR0u7mojbyJ_5VNL5lISAlmwgAGYs7wslAeNjXo_OUSjCj4).

- e. In January 2021, there were reports of blockings of Gmail, Facebook, and Instagramdays. A week after, users experience a block of the video-conference platform Zoom. Media outlets linked these blockings to alleged non-compliance of platforms with a recently approved legislation that taxed internet companies on 18% sales tax of services provided in Tajikistan.<sup>32</sup>
18. As demonstrated above, the government demonstrates opaque and non-transparent behavior regarding when and why it chooses to block and shut down the internet. Most of the internet shutdowns and website blockings are not acknowledged by the government and are rather attributed to technical problems. The censorship occurs arbitrarily, under vague laws, and appears aimed at achieving political and fiscal ends that are not legitimate purposes for restrictions on freedom of expression.
19. The international community is committed to opposing internet shutdowns, and provides evidence that shutdowns are a violation of international human rights law. For instance, in 2020, the UN Human Rights Council issued a resolution on the right to freedom of opinion and expression “strongly condemn[ing] the use of internet shutdowns to intentionally and arbitrarily prevent or disrupt access to or dissemination of information online” and called on governments to refrain from such acts.<sup>33</sup> Further, experts from the United Nations, Organization for Security and Co-operation in Europe (OSCE), Organization of American States (OAS), and the African Commission on Human and Peoples’ Rights declared<sup>34</sup> that internet “kill switches” can never be justified under international human rights law, even in times of conflict.<sup>35</sup>

### **Targeted attacks on independent media’s websites and social media pages**

20. The Tajik government has developed targeted means of online censorship. Access Now’s Digital Security Helpline (Helpline) has also documented several instances of such attacks.
21. For example, in November 2018, the Tajik government blocked two domains of Asia Plus independent media (*news.tj* and *asiaplus.tj*). Despite this blockage, the readers were able to access the resources by using VPN. However, in August 2019, Asia Plus discovered that their domain name server addresses had been changed, making the websites inaccessible. The

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<sup>32</sup> Eurasianet, Tajikistan: Authorities somehow find more room for internet censorship, 2021, <https://eurasianet.org/tajikistan-authorities-somehow-find-more-room-for-internet-censorship>; Eurasianet, Tajikistan looks to take a cut from online commerce, 2020, <https://eurasianet.org/tajikistan-looks-to-take-a-cut-from-online-commerce>.

<sup>33</sup> UN Human Rights Council, *Freedom of opinion and expression*, 2020, UN Doc A/HRC/RES/44/12, <https://undocs.org/en/A/HRC/RES/44/12>.

<sup>34</sup> Article 19, *Joint Declaration on Freedom of expression and the internet*, 2015, <https://www.article19.org/resources/joint-declaration-freedom-expression-internet%20/>.

<sup>35</sup> Access Now, Internet kill switches are a violation of human rights law, declare major UN and rights experts, 2015, <https://www.accessnow.org/internet-kill-switches-are-a-violation-of-human-rights-law-declare-major-un/>.

state body responsible for fixing such mistakes in the records within domains ending in .tj did not respond to requests. This indicates that the state authorities were likely behind the change in the records. This change disrupted traffic to the sites, but may also have been used to intercept and monitor traffic by tricking website visitors into visiting malicious sites that are pointed to those domains. Asia Plus' new domains created after the issue have also been blocked.

22. The Helpline has also documented instances of mass reporting of activist and independent media social media pages by pro-government actors, which resulted in blocking of such websites.

### ***Online and offline harassment and attacks to journalists and civil society***

23. Tajikistan has a systemic pattern of harassment and intimidation of journalists, bloggers, and independent media.<sup>36</sup> Independent television and radio stations are often forced to engage in self-censorship out of fear of losing their license.
24. Registration of the media and accreditation of the journalists are often used as a means to manipulate or crackdown against dissenting voices and critical media or journalists. For example, Radio Free Europe/Radio Liberty's (RFE/RL) Tajik Service has been routinely denied proper accreditation, forcing them to consider closing their offices in the country.<sup>37</sup> Examples where the government revoked licenses or accreditation based on a specific published content include the articles related to the President of Tajikistan Emomali Rahmon during his pre-election bid<sup>38</sup> and his daughter Rukhshona Rahmon,<sup>39</sup> who was appointed to the Ministry of Foreign Affairs. In another instance, the government imposed fines for "violating the norms of the official language" on journalists who use non-state approved terminology.<sup>40</sup>
25. Tajik independent media journalists are also facing pressure and some are forced to leave the country. Therefore, in 2016, former Asia-Plus journalist Humayro Bakhtiya fled the country and applied for asylum in Germany after she was forced to leave her job at Asia-Plus and

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<sup>36</sup> Advox, Tajik Parliament Plans to Monitor Citizens Who Visit 'Undesirable' Websites, 2017, <https://advox.globalvoices.org/2017/07/31/tajik-parliament-plans-to-monitor-citizens-who-visit-undesirable-websites/>.

<sup>37</sup> Deutsche Welle, Press freedom in Tajikistan: Going from bad to worse, 2020, <https://www.dw.com/en/press-freedom-in-tajikistan-going-from-bad-to-worse/a-53697778>.

<sup>38</sup> Радио Озоди, «Репортеры без границ» подвергли критике Таджикистан за лишение аккредитации корреспондента Настоящего Времени, 2020, <https://rus.ozodi.org/a/30803657.html>.

<sup>39</sup> Reporters without borders, Journalist loses accreditation over report about Tajikistan's president, 2020, <https://rsf.org/en/news/journalist-loses-accreditation-over-report-about-tajikistans-president>.

<sup>40</sup> Deutsche Welle, Report: Tajikistan to fine journalists for unknown words, 2016, <https://www.dw.com/en/report-tajikistan-to-fine-journalists-for-unknown-words/a-19442268>.

discovered several non-identified individuals were following her.<sup>41</sup> Bakhtiya's father, who stayed in Tajikistan was also threatened.<sup>42</sup>

26. Several journalists were also charged and incarcerated for their work. Junaydullo Khudoyorov, a resident of the Rasht district of Tajikistan, was sentenced to 5 years in early 2018 on extremism charges. The reason was his comment under one of the publications on Odnoklassniki social network.<sup>43</sup> In August 2018, Umar Murodov, a Tajik resident was arrested upon his return from Russia, charged and sentenced to 5 years in prison for insulting the country's President and calling for the overthrow of the government on social media posts.<sup>44</sup> Alijon Sharipov was sentenced to 9.5 years for watching, liking, and sharing videos of the banned Islamic Renaissance Party.<sup>45</sup> He was charged with "calling for extremism, overthrowing the Government and working for the banned political parties."<sup>46</sup>
27. In December 2017, Tajik authorities detained a well known local journalist Mirsaid Khairulloev on charges of embezzlement, incitement of interethnic, national, or religious hatred, and providing false testimony after he voluntarily appeared at the Prosecutor General's office for questioning prior to his arrest.<sup>47</sup> Human rights activists and media practitioners quickly pointed towards political motivation to detain Mirsaid Khayrulloev - six months before his imprisonment, he had written an open letter to the President regarding a potential incident of corruption by local government representatives.<sup>48</sup>
28. In January, 2020, Tajik authorities detained a prominent journalist Daler Sharipov and charged him under Article 189 of the Criminal Code for "incitement of religious discord."<sup>49</sup> According to the General Prosecution office, Daler Sharipov wrote and illegally disseminated a dissertation that conveys ideas similar to those of the Muslim Brotherhood, which is banned in Tajikistan.<sup>50</sup> The case attracted public attention as one of the examples when the government used broad and vague language from the anti-extremism legislation to silence an independent voice. After a year of imprisonment, Daler Sharipov was released.<sup>51</sup>

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<sup>41</sup> Deutsche Welle, Tajikistan regime targeting families of political activists 2019, <https://www.dw.com/en/tajikistan-regime-targeting-families-of-political-activists/a-49541709>.

<sup>42</sup> Id.

<sup>43</sup> Central Asian Bureau for Analytical Reporting, Tajikistan: Any Online Action Will Be Used Against You, 2020, <https://cabar.asia/en/tajikistan-any-online-action-will-be-used-against-you-2>.

<sup>44</sup> Radio Free Europe/Radio Liberty, Tajik Man Jailed For 'Insulting' President On Social Media, 2018, <https://www.rferl.org/a/tajik-man-murodov-jailed-insulting-president-social-media/29437715.html>.

<sup>45</sup> Радио Озоди, Grimасы таджикской Фемиды: 9,5 лет тюрьмы за "Like" и "Класс" в соцсети, 2018, <https://rus.ozodi.org/a/29217598.html>.

<sup>46</sup> Id.

<sup>47</sup> Human Rights Watch, Tajikistan: Independent Journalist Detained, 2017, <https://www.hrw.org/news/2017/12/11/tajikistan-independent-journalist-detained>.

<sup>48</sup> Id.

<sup>49</sup> Eurasianet, Tajikistan: Court sentences journalist Daler Sharipov to 1 year in prison, 2020, <https://eurasianet.org/tajikistan-court-sentences-journalist-daler-sharipov-to-1-year-in-prison>.

<sup>50</sup> Id.

<sup>51</sup> 2021 Freedom Now, Tajikistan: Daler Sharipov Released From Prison, 2021, <https://www.freedom-now.org/tajikistan-daler-sharipov-released-from-prison/>.





32. In the wake of the pandemic, the Prosecutor General's Office warned that "with respect to those who are sowing panic across the country, measures will be taken against them as defined by the laws of Tajikistan."<sup>62</sup> At the same time, authorities have shown little effort to investigate attacks on journalists reporting on critical issues related to COVID-19. For example, Asia-Plus journalist Abdullo Gurbati, known for his critical writing and a report on panic in markets in Dushanbe due to rumors of COVID-19 flour shortage, was assaulted twice on May 11 and May 29.<sup>63</sup> Some of the attackers were found and charged only with petty hooliganism.<sup>64</sup>

## **V. Freedom of peaceful assembly and association**

33. The government strictly limits freedom of assembly. Local government approval is required to hold demonstrations, and officials often refuse to grant permission.<sup>65</sup> In 2014, the Parliament adopted new amendments to the Law on Meetings, Rallies, Demonstrations and Marches, which restrict foreign citizens from participating in those activities.<sup>66</sup>

34. As noted in the previous section, anti-government protests are routinely associated with internet shutdowns.

35. There are also numerous stringent restrictions on NGOs in Tajikistan, including cumbersome registration procedures and restrictions on foreign funding.<sup>67</sup>

## **VI. The right to privacy**

### ***Mass surveillance***

36. The Unified Electronic Communications Switching Center enhances the ability of the government to surveil all communications without making requests of service providers or telecommunications companies. In 2017, Parliament also passed a law empowering security agencies the right to monitor online activities of anyone who visits "undesirable websites."<sup>68</sup>

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<sup>62</sup> Deutsche Welle, Press freedom in Tajikistan: Going from bad to worse, 2020, <https://www.dw.com/en/press-freedom-in-tajikistan-going-from-bad-to-worse/a-53697778>.

<sup>63</sup> Id.; Human Rights Watch, Attack on Tajik Journalist Reporting on Covid-19, 2020, <https://www.hrw.org/news/2020/05/13/attack-tajik-journalist-reporting-covid-19#>.

<sup>64</sup> Human Rights Watch, Attack on Tajik Journalist Reporting on Covid-19, 2020, <https://www.hrw.org/news/2020/05/13/attack-tajik-journalist-reporting-covid-19#>.

<sup>65</sup> FreedomHouse, Freedom in the world 2020: Tajikistan, <https://freedomhouse.org/country/tajikistan/freedom-world/2020>.

<sup>66</sup> The International Center for Not-for-Profit Law, Tajikistan, 2020, <https://www.icnl.org/resources/civic-freedom-monitor/tajikistan#:~:text=Article%2028..them%20and%20resign%20from%20them>.

<sup>67</sup> Id.; Asia-Plus Media Group, Last year, foreign funding for Tajik public associations reportedly amounted to 90.707 million somonis, <https://asiaplustj.info/en/news/tajikistan/society/20210202/last-year-foreign-funding-for-tajik-public-associations-reportedly-amounted-to-90707-million-somonis>.

<sup>68</sup> Advox, Tajik Parliament Plans to Monitor Citizens Who Visit 'Undesirable' Websites, 2017, <https://advox.globalvoices.org/2017/07/31/tajik-parliament-plans-to-monitor-citizens-who-visit-undesirable-websites/>.

This, in turn, also creates a chilling effect on the right of Tajik people to exercise other rights like, freedom of expression and peaceful assembly and association.

37. In 2020, Tajikistan introduced the mandatory registration of Mobile Equipment Identity (IMEI) of devices, including phones, tablets, laptops, and other devices.<sup>69</sup> SIM cards re-registration has already been mandatory since the change to the country's Electronic Communications Law in 2015, making it compulsory to leave customers fingerprints along with passport details when buying SIM cards.<sup>70</sup> Authorities claim that registering mobile devices and SIM cards is necessary for security reasons, but experts consider this a measure to strengthen control over the citizens' lives.<sup>71</sup> Mandatory SIM card and devices registration undermines the right to privacy and other rights as it prevents mobile users from communicating anonymously and incentivizes identity theft and trade in stolen personal data.
38. Tajikistan's "Smart City" project supplied and funded by China, allows the government to surveil its citizens in real time with facial recognition cameras.<sup>72</sup> The systems are alerting officials when it establishes that a citizen looks like a wanted person only by 25 percent,<sup>73</sup> creating a significant potential for wrongful identification.
39. Chinese companies, including Huawei and ZTE<sup>74</sup> are not the only ones involved in facilitating mass surveillance in Tajikistan. According to Access Now's 2013 report, the Swedish-Finnish company Teliasonera, through several subsidiaries and joint-stock ventures, have cooperated with the security services in Tajikistan in the interception of various journalists' and opposition figures' phone calls.<sup>75</sup> Russian companies MFI-Soft and PROTEI have also conducted business in this country. MFI-Soft's intermediary, ALOE Systems lists the Tajik subsidiary of the multinational telecom Beeline on its list of customers.<sup>76</sup> PROTEI also lists the Tajik subsidiary of the Russian telecom Megafon as one of its customers.<sup>77</sup>

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<sup>69</sup> Central Asian Bureau for Analytical Reporting, Total Control Over Mobile Devices in Tajikistan, 2020, <https://cabar.asia/en/total-control-over-mobile-devices-in-tajikistan>.

<sup>70</sup> Radio Free Europe/Radio Liberty, Tajikistan Tightens Up On SIM Cards As Security Measure, 2015, <https://www.rferl.org/a/tajikistan-sim-cards-reregister-security-measure/27403181.html>.

<sup>71</sup> Central Asian Bureau for Analytical Reporting, Total Control Over Mobile Devices in Tajikistan, 2020, <https://cabar.asia/en/total-control-over-mobile-devices-in-tajikistan>.

<sup>72</sup> Радио Озоди, В Душанбе уличные камеры начнут распознавать лица, 2019, <https://rus.ozodi.org/a/30003322.html>; Foreign Policy, China's Surveillance State Has Eyes on Central Asia, 2019, <https://foreignpolicy.com/2019/11/15/huawei-xinjiang-kazakhstan-uzbekistan-china-surveillance-state-eyes-central-asia/>.

<sup>73</sup> Радио Озоди, В Душанбе уличные камеры начнут распознавать лица, 2019, <https://rus.ozodi.org/a/30003322.html>.

<sup>74</sup> Access Now, Commonwealth of Surveillance States: On the Export and Resale of Russian Surveillance Technology to Post-Soviet Central Asia, [https://www.accessnow.org/cms/assets/uploads/archive/docs/Commonwealth\\_of\\_Surveillance\\_States\\_ENG\\_1.pdf](https://www.accessnow.org/cms/assets/uploads/archive/docs/Commonwealth_of_Surveillance_States_ENG_1.pdf).

<sup>75</sup> Id.

<sup>76</sup> Id.

<sup>77</sup> Id.

## VII. Recommendations

40. We urge that freedom of expression, access to information, and the right to privacy become prominent issues in the upcoming UPR review cycle. We therefore recommend that the government of Tajikistan:
41. Refrain from shutting down the internet and blocking social media and make a state pledge to refrain from imposing any unlawful restrictions on internet access and telecommunication in the future, particularly in upcoming elections and protests, and amid the COVID-19 pandemic.
42. Repeal or otherwise amend laws which provide for overboard executive powers to infringe upon the right to freedom of expression and access to information – including, but not limited to, the Law on the State of Emergency, the Law on Combating Terrorism (2015), and the Presidential Decree 765 – to bring them in line with Tajikistan’s international human rights obligations.
43. Ensure that the internet, including social media and other digital communication platforms, remain open, accessible, and secure across Tajikistan. Tajikistan should specifically:
  - a. Decentralize internet infrastructure and end the state monopoly over Tajikistan's internet through the Unified Switching Center.
  - b. Order internet service providers operating in Tajikistan to provide everyone with high-quality, secure, and unrestricted internet access throughout election periods, protests and thereafter.
  - c. Order internet service providers operating in the country to inform internet users of any disruptions, and provide timely and transparent guidance to users to identify disruptions likely to impact the quality of service they receive.
44. Refrain from pressuring tech companies, internet service providers or other telecommunications companies to moderate content online in contravention of the rights to free expression and access to information and ensure their compliance with their responsibilities to respect and protect human rights in line with the UN Guiding Principles on Business and Human Rights.
45. Review national legislation and policies to fully guarantee the safety of journalists and media workers, human rights defenders, and activists so that these important actors can pursue their activities freely without undue interference, attacks or intimidation.
46. Start investigations and adequately punish those responsible for harassment and attacks on journalists and civil society.
47. Enact a comprehensive data protection law to protect the right to privacy online, and adequately fund and support its implementation.
48. End mass surveillance programs and enact laws guaranteeing adequate privacy protections.
49. The UPR is an important UN process aimed at addressing human rights issues worldwide. It is a rare mechanism through which citizens around the world get to work with the government to improve human rights and hold them accountable to international law. Access Now and Small Media are grateful to make this submission.

For more information, please contact: [un@accessnow.org](mailto:un@accessnow.org) & [info@uproar.fyi](mailto:info@uproar.fyi)