



UNITED NATIONS HUMAN RIGHTS COMMITTEE

126th Session of the UN Human Rights Committee, 1 July to 26 July 2019

JOINT SUBMISSION OF THE INTERNATIONAL BAR ASSOCIATION HUMAN RIGHTS INSTITUTE (IBAHRI) AND THE INTERNATIONAL COMMISSION OF JURISTS (ICJ) TO THE UN HUMAN RIGHTS COMMITTEE IN VIEW OF THE COMMITTEE'S EXAMINATION OF TAJKISTAN'S THIRD PERIODIC REPORT UNDER ARTICLE 40 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Submitted on 03 June 2019

The International Bar Association's Human Rights Institute

The International Bar Association, established in 1947, is the world's leading organisation of international legal practitioners, bar associations and law societies. It has a membership of over 80,000 individual lawyers, and 190 bar associations and law societies, spanning over 160 countries.

The International Bar Association's Human Rights Institute (IBAHRI) is an autonomous and financially independent entity, which works with the global legal community to promote and protect human rights and the independence of the legal profession worldwide.

The International Commission of Jurists

Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists (ICJ) promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952, in consultative status with the Economic and Social Council in 1957, and active on five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

Contents

II.	Institutional Independence of the legal profession in Tajikistan (Article 2, 14).....	2
	<i>Admission to the legal profession</i>	3
	<i>Safety and security of lawyers</i>	5
	<i>Sufficient time to prepare a defence</i>	7
V.	Individual cases of lawyers prosecuted, convicted or imprisoned	8
VI.	Recommendations.....	10

I. Introduction

1. During its 126th session, from 1 to 26 July 2019, the Human Rights Committee ('the Committee') will examine the Republic of Tajikistan's implementation of the provisions of the International Covenant on Civil and Political Rights (ICCPR or Covenant), including in light of the State Party's third periodic report under article 40 of the Covenant.
2. In the context of this review, the International Bar Association Human Rights Institute (IBAHRI) and the International Commission of Jurists (ICJ) wish to bring to the Committee's attention some issues of concern pertaining to Tajikistan's implementation of the ICCPR. This submission highlights a number of concerns relating to the lack of independence of the legal profession in Tajikistan, and its consequences for the protection of certain Covenant rights. In particular, this submission addresses: (a) the legal profession's lack of independence; (b) the authorities' interference with lawyers' legitimate activities; (c) restrictions placed on lawyers' access to their clients and the rights of the defence; as well as (d) specific cases of concern.
3. These concerns are relevant for the Committee's evaluation of the Republic of Tajikistan's implementation of the right to a fair trial under article 14 ICCPR, as well as other Covenant rights, including for example the State's obligations under articles 2, 7, 9, and 10 of the ICCPR.

II. Institutional Independence of the legal profession in Tajikistan (Article 2, 14)

Governance of the legal profession

4. In Tajikistan, in recent years, lawyers have faced significant constraints when exercising their profession, including when they have sought to protect their clients' human rights.
5. The 2018 Law "On Advokatura and Advocates' Activities" ('the Law "On Advokatura"') recognizes lawyers' independence,¹ and the Bar Association (the Union of Lawyers) as an independent non-governmental, non-commercial organization.² Despite the official recognition of the independence of the legal profession, its institutional independence is not fully guaranteed. In particular, the 2015 Law "On Advokatura" made the Qualification Commission, which takes decisions in regard to the admission of lawyers to the profession, dependant on the Ministry of Justice.³ This Commission also conducts the regular mandatory re-examination ("attestation") of members of the Bar Association (See para. 8 below),⁴ which may result in disbarment of existing members in case a lawyer fails the re-examination.⁵ The Qualification Commission is chaired by a Deputy Minister of Justice *ex officio*⁶ and all sessions of the Commission are convened by the Deputy Minister of Justice.⁷
6. In its Concluding Observations adopted in 2018, the UN Committee of Torture expressed concern over the Ministry's undue influence over the Qualification Commission, and called on Tajikistan to amend the law with a view to strengthening the independence of the Qualification Commission from the Ministry of Justice.⁸
7. In 2013, the State delegation of Tajikistan made a commitment before the UN Human Rights Committee during its session in Geneva that the Qualification Commission would not permanently remain a body of the Ministry of Justice, and explained that it was under the Ministry of Justice's governance only as a transitional measure, following which it would

¹ Law "On Advokatura and Advocates' Activity", Articles 5 and 23.

² *Ibid.*, Articles 1, 5, 6(1).

³ *Ibid.*, Article 13(1).

⁴ *Ibid.*

⁵ *Ibid.*, Article 22(1).

⁶ *Ibid.*, Article 13(3).

⁷ *Ibid.*, Article 13 (5).

⁸ UN Committee against Torture, Concluding observations on the third periodic report of Tajikistan, 18 June 2018, CAT/C/TJK/3, paras 19 and 20.

become a body of the Union of Lawyers itself.⁹ Reassurances in this regard were reiterated to the ICJ in November 2013.¹⁰ However, steps have not been taken to implement this commitment so far.

8. Besides, the 2015 Law "On Advokatura" mandates a re-examination ("attestation") of lawyers every five years.¹¹ The re-examination is conducted by the Qualification Commission.¹² The provision can be interpreted as imposing a continuous legal education (CLE) requirement, but it also carries the risk of misuse by authorities seeking to disbar lawyers. As the Qualification Commission remains under the control of the Ministry of Justice, a regular re-attestation of lawyers may become a tool of reprisal against those lawyers working on high profile and "sensitive" cases, including in the defence of the human rights of their clients. The UN Special Rapporteur on freedom of opinion and expression reported that "[...] the Law "On Advokatura", adopted in 2015, put further pressure on the independence of lawyers. The law empowers the Ministry of Justice to act as a licensing body requiring all lawyers to renew their accreditation and go through a new examination process, which must be redone every five years. It was reported that the test contained subjects unrelated to law, including political and historical questions." (op cit para.52)

The Human Rights Committee should recommend that the government of Tajikistan, in consultation with the Bar Association and with individual lawyers,

- **reform the Law "On Advokatura" activity to remove any role for the Ministry of Justice in the governance of the legal profession, including in the Qualification Commission. Any role of the Ministry of Justice should be a formal one based upon the decisions of the Bar Association.**
- **Amend the 2015 law, in consultation with the Bar Association and with individual lawyers, to ensure the objectivity and independence of any re-examination or examination processes for lawyers.**

Admission to the legal profession

9. Following the introduction of a new Law "On Advokatura" in 2015, lawyers were obliged to sit exams set by the Ministry of Justice to enter the newly established Bar Association. As a result, the number of practising lawyers fell from 1500 before the reform to over 800 today.¹³ The number of lawyers is particularly low in certain regions: there are towns or villages in Tajikistan where no lawyer is available. In his recent report, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression noted "Due to the [2015] legislation, reportedly only approximately 30% of the lawyers practising before the law was passed are currently still in practice".¹⁴
10. Such situation appears to be a detriment to an effective access to justice for everyone in need of legal representation and, in particular, for persons in rural areas of Tajikistan. In particular, it limits access to a lawyer for suspects and accused persons, with consequences for the right to fair trial (Article 14 ICCPR), the right to liberty (Article 9 ICCPR) and the freedom from torture and cruel, inhuman or degrading treatment or punishment (Articles 7 and 10 ICCPR). In 2018, the UN Committee Against Torture expressed concern that "amendments to the Bar and Advocacy Act (i.e. "The Law on Advokatura and Advocates' Activity") have given the Ministry of Justice undue influence over the qualifications commission responsible for licensing lawyers and have led to a dramatic drop in the number of lawyers in the country, and that these developments are impeding the States party's ability to ensure that all people deprived of their liberty are able to access fundamental legal

⁹ Tajikistan: ICJ warns of risk to independence of lawyers, <https://www.icj.org/tajikistan-icj-warns-of-risk-to-independence-of-lawyers/>.

¹⁰ Ibid.

¹¹ Law "On Advokatura and Advocates' Activity", Article 35.

¹² Ibid.

¹³ Official information from the Union of Lawyers of Tajikistan.

¹⁴ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Tajikistan, 13 October 2017, A/HRC/35/22/Add.2, para. 53.

safeguards against torture and ill-treatment — including prompt access to an independent lawyer — in practice”.¹⁵ No significant progress in the increase of the number of lawyers has been recently recorded, and no measures to address this situation were included in the recently adopted *Programme on the Judicial and Legal Reform in the Republic of Tajikistan for 2019-2021*.¹⁶

The Human Rights Committee should recommend that the government of Tajikistan:

- **In cooperation with the Bar Association take measures to enable a marked increase in the number of individuals qualifying to practise as lawyers, including in rural areas.**

III. Interference with lawyers’ activities (Articles 2, 7, 9, 14)

11. According to the Law “On Advokatura and Advocates’ Activity”, “interference with the lawyers’ activity carried out in accordance with the legislation of the Republic of Tajikistan or impeding such activity in any way is prohibited”.¹⁷ The law bans “demanding from lawyers, employees of lawyers’ organisations and the Union of Lawyers information related to the provision of legal assistance in specific cases”.¹⁸ Furthermore, it is specifically forbidden “[...] to call and interrogate a lawyer, lawyer’s assistant or trainee-lawyer as a witness about the circumstances that became known to them in connection with the provision of legal assistance”.¹⁹
12. In April-May 2019, the IBAHRI, in cooperation with local civil society actors, conducted a wide survey of lawyers (the Survey) to monitor the situation of the legal profession.²⁰ The survey was conducted in Dushanbe; the regions of Central Subordination; Autonomous Mountain Region Badakhshan; Khatlon region; Sugd region (Khujand, Panjakent; Istaravshan; Konibodom; Isfara; J. Rasulov and B. Gafuriv cities). 158 practising lawyers were interviewed.
13. In regard to interference with their work, around 26% of the lawyers interviewed stated that various law enforcement agencies intervene in their daily work; 16% of lawyers stated that they had been requested to provide a copy of a contract with a client and the fee amount; 5% of lawyers said that they had been asked to provide information on all their cases; to report on their daily activities, on their meetings, on the trips abroad and their funding, on their collaboration with civil society, journalists, international organisations, and even personal information about their family members.
14. Challenges faced by lawyers in engaging with law enforcement personnel have also been confirmed to the ICJ. Lawyers described the attitude that the prosecution and law-enforcement agents displayed towards them as “disdainful”.²¹ In the course of their professional activities, lawyers reportedly continuously face lack of respect and intimidation by law-enforcement agents.²² Attacks on the independent functioning of the legal profession among other things include interference with lawyers’ rights to free expression and association.

The Human Rights Committee should recommend that the Government of Tajikistan take measures to ensure that law enforcement agencies comply with Tajikistan law in their

¹⁵ Committee against Torture, Concluding observations on the third periodic report of Tajikistan, 18 June 2018, CAT/C/TJK/CO/3, para. 19.

¹⁶ Programme on the Judicial and Legal Reform in the Republic of Tajikistan for 2019-2021, http://www.adlia.tj/show_doc.fwx?Rgn=133776.

¹⁷ Law “On Advokatura and Advocates’ Activity”, para. 23(1).

¹⁸ Ibid., para. 23(3).

¹⁹ Ibid., para. 23(5).

²⁰ Conducted by the Office of Civil freedoms and Union of Lawyers of Tajikistan with the financial and technical support of International Bar Association’s Human Rights Institute and Human Rights Matter, Germany

²¹ ICJ Report, Independence of the Legal Profession in Central Asia, page 77.

²² Ibid.

interaction with lawyers, and cease any illegitimate interference with their activities. Cases of improper interference with the work of lawyers should be promptly investigated, and those in breach of the legislation of Tajikistan should be held accountable in accordance with the law.

Safety and security of lawyers

15. The interviews conducted by the IBAHRI revealed that 45% of Tajik lawyers feel under pressure from the authorities simply for doing their job. Often lawyers are threatened with disciplinary, administrative and even criminal charges for doing their work. The Survey revealed that lawyers are often unofficially invited for meetings at the law enforcement agencies or security agencies, where they are threatened. They have also been subjected to unofficial inspections by the State Finance Control and Anti-Corruption Agency. For example, strong allegations that the arrest of lawyer Fakhridin Zokirov by this Agency in March 2014 was the result of his robust defence of their client in court.²³ Lawyers also received instructions (threats) through their friends not to take up certain cases. Four lawyers indicated that due to their legal work, they suffered physical attacks by unknown persons.
16. Since 2015, a number of lawyers have been convicted and sentenced to lengthy prison terms on bogus charges of fraud, corruption and other crimes, which are likely to be motivated by reasons other than the crimes they are charged of (See below). Between 2014 and January 2019, 5 lawyers were imprisoned;²⁴ a number of other lawyers have faced harassment and threats (See below).
17. Lawyers who take up politically sensitive cases, including cases related to national security and counter-terrorism, appear to be in particular danger (See Chapter IV below). For example, among others, lawyers who raised concern about the use of torture by law enforcement officials with the UN Special Rapporteur on Torture, were subject to harassment and intimidation.²⁵
18. Based on the definitions of terrorism and extremism in the Tajik legislation,²⁶ lawyers who defend clients charged with the crimes of terrorism or extremism may become the subject of criminal prosecutions for the same or similar crimes themselves, as was the case with lawyers Buzurgmehr Yorov and Nuriddin Makhkamov (See Chapter V below).

²³ Tajikistan: arrest of lawyer is a threat to the independence of the profession, <https://www.icj.org/tajikistan-arrest-of-lawyer-is-a-threat-to-the-independence-of-the-profession/>.

²⁴ Buzurgmehr Yorov, Jamshed Yorov, Nuriddin Makhkamov, Fahriddin Zokirov, Shuhrat Kudratov.

²⁵ Concluding observations on the second periodic report of Tajikistan, adopted by the Committee at its forty-nine session (29 October–23 November 2012), para. 15.

²⁶ Criminal Code Article 179. Terrorism

(1) Terrorism, that is committing an explosion, arson, firing with firearms or other actions, which create the danger of destroy people, causing a substantial financial damage or coming other socially dangerous consequences, if these actions committed with the goal of violating public security, frightening the population or influencing the decision-making of the power organs, as well as threat of committing the mentioned actions with the same goals are punishable by imprisonment for a period of 5 to 10 years.

(2) The same actions, if committed:

a) by a group of individuals in a conspiracy ;

b) repeatedly,- are punishable by imprisonment for a period of 8 to 15 years simultaneously with confiscation of property.

(3) Attempt to murder, major bodily injury caused to a statesman or public man or representative of the power, committed in relation with their state or public activity with the goal of destabilization of the situation or influencing the decision-making of the state bodies or hindering the political or public activity, - is punishable by imprisonment for a period of 10 to 18 years simultaneously with confiscation of property.

(4) The actions specified in paragraphs 1, 2, or 3 of the present Article, if they:

a) committed by an organized group;

b) committed along with threat of using a weapon of mass destruction, radioactive materials and committing other actions which can lead to mass loss of people;

c) committed by an especially dangerous recidivist;

d) caused carelessly death of a person or other serious consequences, - are punishable by imprisonment for a period of 15 to 20 years simultaneously with confiscation of property, or death penalty.

Note: A person who participated in preparation of the act of terrorism are released from criminal liability, if he/she assists in preventing the act of terrorism by informing in time the organs of state power or by other manner, and if there is no other elements of crime in his/her actions.

19. Harassment and all forms of retaliation against lawyers have a strong chilling effect on other lawyers in their work.²⁷ In this regard, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in his recent report noted that “[t]he detention and intimidation of lawyers further stimulate a widespread sense of insecurity among all critical voices in the country”.²⁸

The Committee should recommend that Tajikistan take urgent steps to ensure that lawyers are not identified with the causes of their clients regardless of the types of cases in which they act. Lawyers who have been prosecuted solely because they were doing their work, representing their clients, should be released and remedies, charges against them should be dropped. Tajikistan should further be recommended to take effective measures to prevent cases of prosecution of lawyers in relation to the exercise of their duties of lawyers.

IV. Restrictions on access to clients and the rights of the defence (Articles 7, 9, 10, 14).

Access to clients in detention

20. Article 53 of the Criminal Procedure Code (CPC) and the Article 9 of the Law “On Advokatura and Advocates’ Activity” establish a lawyer’s right to meet with his or her clients. The law establishes that a lawyer needs to provide lawyer’s authorisation (“order”) and ID in order to meet with clients in detention confidentially without a restriction on the number and length of the meetings.²⁹ However, in practice the implementation of this legal provision is restricted. More than 70% of the lawyers interviewed stated that they had not been allowed to see their clients in detention centres and temporary detention facilities if they had not presented an authorising letter from the investigator. Despite clear provisions to the contrary in the law, in practice lawyers who wish to meet their detained clients need to request an authorisation from the investigator for the visit. Only upon the receipt of such an authorisation, are they allowed to meet their clients. If the investigators reject the request or delay responding, lawyers have no access to their clients. Almost 18% of interviewed lawyers indicated that they had cases where they could not meet their detained clients at all. Often, these are cases concerning State secrets. Such a practice is in contrary to Articles 9, 7, 10 and 14 of the ICCPR as well as principles 1, 2 and 8 of the UN Basic Principles on the Role of Lawyers.
21. The investigators’ letters permitting the lawyers to meet their clients in detention often indicate the exact number of lawyers’ visits allowed, also the exact date and time of those visits. 35% of lawyers responded that during the pre-trial detention of their clients, they are usually granted the permission for just one meeting. For any subsequent meetings, they need to again request permission from the investigator. This practice is in direct contradiction to the legislation of Tajikistan which enshrines an unrestricted number of length of meetings³⁰ and is contrary to Articles 9 and 14(3)(b) of the ICCPR.

The Human Rights Committee should recommend that Tajikistan take effective measures to ensure that the law which allows for an unrestricted number and length of lawyer-client meetings where individuals are held in pre-trial detention, is fully implemented and that meetings can take place without any authorisation by the investigators or other law

²⁷ Tajikistan: long prison sentences for lawyers endangers the fairness of the justice system, <https://www.icj.org/tajikistan-long-prison-sentences-for-lawyers-endangers-the-fairness-of-the-justice-system/>; Tajikistan: ICJ concerned at conviction of lawyer Shukhrat Kudratov, <https://www.icj.org/tajikistan-icj-concerned-at-conviction-of-lawyer-shukhrat-kudratov/>.

²⁸ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Tajikistan, 9 June, A/HRC/35/22/Add.2, para. 6.

²⁹ Law “On Advokatura and Advocates’ Activity”, Article 9.

³⁰ Criminal Procedure Code, Art. 53; Law “On Advokatura and Advocates’ Activity”, Art. 9.

enforcement authorities investigating the case. Access to clients should be granted solely on the basis of the documents required by the law.

Confidentiality of lawyer-client meetings

22. In the Survey, lawyers also responded that during the pre-trial investigation phase lawyers cannot communicate with their clients in private. The UN Special Rapporteur on Torture pointed to the problem of “unlawful restrictions on lawyers’ confidential and private access to their defendants.”³¹ ICJ equally received information about “almost complete denial of confidential meetings between lawyers and their clients”.³² In practice officers at remand detention facilities attend the meetings between the lawyer and his or her client, preventing confidentiality of communication, which appears to be particularly problematic in national security cases.³³ This practice is contrary to the Tajikistan law, which enshrines the right to a confidential meeting of persons in detention and their lawyers and is contrary to Article 14.3(b) of the ICCPR and Principle 8 of the UN Basic Principles on the Role of Lawyers.

The Human Rights Committee should recommend Tajikistan take measures in order to guarantee that confidentiality of meetings between lawyers and their clients in detention is strictly ensured in practice. This should be guaranteed regardless of the types of charges against individuals detained.

Sufficient time to prepare a defence

23. The requirement of adequate time and facilities for the preparation of a defence (Article 14(3)(b)) is not upheld in practice: 14% of lawyers interviewed stated that they were informed about pre-trial procedural actions three days before the actions; 37% of lawyers stated that they were informed one day before the action; and 28% reported that they were informed on the very same day. This does not leave the lawyer enough time to prepare for the concrete pre-trial investigation procedure, and hinders the equality of arms principle.

The Human Rights Committee should recommend that Tajikistan take prompt measures to ensure that lawyers are afforded sufficient time to advise their clients and assist them in connection with their defence.

Access to case file

24. The IBAHRI Survey also showed that more than 20% of the interviewed lawyers were not given the opportunity to familiarize themselves with the case file before the trial. This means that lawyers see the full case file for the first time during the trial. Furthermore, almost 45% of lawyers stated that they have not been allowed to copy or scan case materials either by prosecution or courts (depending on whether the proceedings are at the pre-trial or trial stage). In its report on the independence of the legal profession in Central Asia the ICJ pointed out that lawyers “noted that success in gaining access to the case-file during the pre-trial investigation depends on the nature of the case. Since the entry into force of the new Code of Criminal Procedure, access to the case-file is normally granted in all but sensitive cases, and lawyers are allowed to make a copy thereof. If however a case is a “contracted” one (a case which is controlled by the executive or another powerful interest) or is politically motivated, it is very hard for a lawyer to obtain any access to the case-file.”³⁴

25. 12% of lawyers also noted that they had not received any responses from investigators and/or judges to their various process-related requests and complaints at least once. These practices are contrary to the principle of equality of arms (Article 14(3)) and to the right to an effective defence (Article 14.3(b)).

The Human Rights Committee should recommend that the law which guarantees access to case files is implemented in full and that lawyers are able to make copies of materials

³¹ UN Special Rapporteur report, A/HRC/22/53/Add.1, para. 43.

³² Achieving Justice for Gross Human Rights Violations in Tajikistan Baseline Study, October 2017, ICJ Global Redress and Accountability Initiative, page 8.

³³ ICJ report, Independence of the Legal Profession in Central Asia, page 77.

³⁴ Ibid., page 75.

in the preparation of the defence of their clients as guaranteed by law. Such access should be afforded in all cases and any restrictions on access in particular categories of cases should ensure that rights under Article 14.3 are respected.

V. Individual cases of lawyers prosecuted, convicted or imprisoned

Recent years have been characterized by an unprecedented level of prosecutions of lawyers, which appear to be initiated as a result of their professional activity in defence of their clients. Cases against lawyers are initiated on bogus charges of fraud, corruption, extremism, or terrorism; and lawyers face long sentences in prison for such crimes.

The cases listed below illustrate a pattern of systematic targeting of lawyers in Tajikistan for their activities in defence of their clients.

Buzurgmehr Yorov (currently in prison)

26. Buzurgmehr Yorov, a prominent lawyer, represented 13 leaders of the Islamic Renaissance Party of Tajikistan (IRPT) following an official ban on the Party in 2015 as a terrorist organization.³⁵ Because of his legal assistance provided to the IRPT, Buzurgmehr Yorov was himself targeted by the Tajik law enforcement authorities. He was arrested in 2015, and sentenced to 23 years in prison on charges of, *inter alia*, “public calls for undertaking extremist activities”. As a lawyer representing banned organisation, he was identified with his clients and convicted on similar grounds. In March 2017, the court extended Yorov’s sentence to an additional two years’ deprivation of liberty for “contempt of court and insulting the representative of power” after Mr Yorov quoted a poem in the court. In August 2017, Mr Yorov received a further three years sentence on charges of “insulting the president.”

Nuriddin Makhkamov (currently in prison)

27. Lawyer Nuriddin Makhkamov also represented the members of the IRPT, i.e. organisation banned as terrorist. In 2015, he was arrested and himself charged with extremism-related charges for his activities as lawyer, in breach of the lawyers’ non-identification with their clients’ principle. In 2016, Mr Makhkamov was sentenced for extremism to 21 years in prison.³⁶

Shuhrat Kudratov

28. Lawyer Shukhrat Kudratov defended opposition activists, victims of police torture, and those accused of “religious extremism”. For his activities as lawyer, in January 2015, Mr Kudratov was sentenced to nine years in prison in a strict regime prison on trumped-up charges of fraud.³⁷

29.

He was also banned from working as a lawyer for two years after his release. Mr Kudratov was a defence counsel for Mr Zayd Saidov, former Minister of Industry of Tajikistan, who was arrested after he created a new opposition party in the run up to the December 2013 presidential elections. Before his arrest, Shukhrat Kudratov and Fakhriddin Zokirov (See below), reported that they had faced numerous threats and intimidation and were warned that they should drop the case of Zayd Saidov. Shuhrat Kudratov was released from prison in 2017.

³⁵ Tajikistan: ICJ concerned at arrest of lawyer, <https://www.icj.org/tajikistan-icj-concerned-at-arrest-of-lawyer/>; Tajikistan: long prison sentences for lawyers endangers the fairness of the justice system, <https://www.icj.org/tajikistan-long-prison-sentences-for-lawyers-endangers-the-fairness-of-the-justice-system/>.

³⁶ Tajikistan: long prison sentences for lawyers endangers the fairness of the justice system, <https://www.icj.org/tajikistan-long-prison-sentences-for-lawyers-endangers-the-fairness-of-the-justice-system/>.

³⁷ Tajikistan: ICJ concerned at conviction of lawyer Shukhrat Kudratov, <https://www.icj.org/tajikistan-icj-concerned-at-conviction-of-lawyer-shukhrat-kudratov/>.

Fakhriddin Zokirov

30. In 2014, Tajikistan's Anti-Corruption Agency arrested Fakhriddin Zokirov, who was also representing the former Minister of Industry, Mr Zayd Saidov. Mr Zokirov was released 8 months later upon a condition that he would no longer represent Mr Zayd Saidov.³⁸ As Mr Zokirov continued working on Saidov's cases, he was again arrested in August 2015, this time on extortion charges. He was again released in November 2015,³⁹ after paying a 14,600 Somoni fine (approximately US\$2,000).

Ishok Tabarov

31. Mr Ishok Tabarov together with lawyers Shuhrat Kudratov and Fakhriddin Zokirov represented Mr Zayd Saidov, the former Minister of Industry and the leader of the unregistered New Tajikistan opposition party. As a result of his legal work, his family was targeted: his two sons were charged and convicted on bogus charges of extremism. Mr Tabarov died of a heart attack after his second son was arrested.⁴⁰

Jamshed Yorov

32. Mr Jamshed Yorov, brother of Buzurgmehr Yorov, took over the cases of Buzurgmehr Yorov after his brother's arrest. Jamshed Yorov was arrested in 2016 after being accused of publicizing the sentence of his clients, which was held to constitute State secret.⁴¹ He was sentenced to 21 years in prison. Mr Jamshed Yorov was later released on amnesty, and has fled Tajikistan due to continuing harassment and fear of re-arrest. In December 2016, a new criminal case was opened against him in his absence on charges of extremism, and he is currently Mr Jamshed Yorov is under search by the Tajik authorities. His family cannot leave Tajikistan.

Khosiyat Yorova

33. Ms Khosiyat Yorova is a sister of Messrs Jamshed and Buzurgmehr Yorovs. In 2015, she represented her brother Buzurgmehr Yorov after Mr Jamshed Yorov was arrested, and thus could not represent Mr Buzurgmehr Yorov anymore. She was threatened not to represent him. In 2016, she left the country and with her family moved to Europe. In 2016, after she left the country, a criminal case was also opened against her on charges of extremism; she is currently under the search of Tajik authorities too. She has applied for asylum in Europe.

Fayziniso Vokhidova

34. After the adoption of the new Law "On Advokatura and Advokates' Activity", lawyer Fayziniso Vokhidova lost her qualified lawyer's status due to the provision depriving a person to practice law if the person has been charged with committing a crime even before court judgment confirmed that. Ms Fayziniso Vokhidova was a prominent lawyer who had been critical about the sentencing of her colleague Mr Buzurgmehr Yorov. The State Security officers on multiple occasions invited her to explain her actions. On 14 May 2017, Ms Fayziniso Vokhidova was detained at the Tajik border by the National Security officers and was held for eight hours, and was banned to leave the country.

In regard to the individual cases listed above, the Human Rights Committee should recommend that Tajikistan review these cases with the aim of ensuring that lawyers who were prosecuted in connection to their work in defence of their clients – be such grounds formal or informal – are released and remedies are provided to them for the violation of their human rights as a result of the proceedings against them.

³⁸ Tajikistan: arrest of lawyer is a threat to the independence of the profession, <https://www.icj.org/tajikistan-arrest-of-lawyer-is-a-threat-to-the-independence-of-the-profession/>.

³⁹ Tajikistan: ICJ calls for steps to ensure independence of the legal profession, <https://www.icj.org/tajikistan-icj-calls-for-steps-to-ensure-independence-of-the-legal-profession/>.

⁴⁰ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Tajikistan, 13 October 2017, A/HRC/35/22/Add.2, paras 51-52.

⁴¹ Tajikistan: arrest of lawyer raises concern over reprisals for defense of clients, <https://www.icj.org/tajikistan-arrest-of-lawyer-raises-concern-over-reprisals-for-defense-of-clients/>.

VI. Recommendations

The Human Rights Committee should recommend that the government of Tajikistan:

- **in consultation and cooperation with the Bar Association and with individual lawyers:**
 - **reform the Law "On Advokatura and Advocates' Activity" activity to remove any role for the Ministry of Justice in the governance of the legal profession, including in the Qualification Commission. Any role of the Ministry of Justice should be a formal one based upon the decisions of the Bar Association;**
 - **amend the 2015 law, in consultation with the Bar Association and with individual lawyers, to ensure the objectivity and independence of any re-examination or examination processes for lawyers.**
- **take measures to enable a marked increase in the number of individuals qualifying to practise as lawyers, including in rural areas.**
- **take measures to ensure that law enforcement agencies comply with Tajikistan law in their interaction with lawyers, and cease any illegitimate interference with their activities. Cases of improper interference with the work of lawyers should be promptly investigated, and those in breach of the legislation of Tajikistan should be held accountable in accordance with the law.**
- **Tajikistan take urgent steps to ensure that lawyers are not identified with the causes of their clients regardless of the types of cases in which they act. Lawyers who have been prosecuted solely because they were doing their work, representing their clients, should be released and remedies, charges against them should be dropped. Tajikistan should further be recommended to take effective measures to prevent cases of prosecution of lawyers in relation to the exercise of their duties of lawyers.**
- **take effective measures to ensure that the law which allows for an unrestricted number and length of lawyer-client meetings where individuals are held in pre-trial detention, is fully implemented and that meetings can take place without any authorisation by the investigators or other law enforcement authorities investigating the case. Access to clients should be granted solely on the basis of the documents required by the law.**
- **take measures in order to guarantee that confidentiality of meetings between lawyers and their clients in detention is strictly ensured in practice. This should be guaranteed regardless of the types of charges against individuals detained.**
- **take prompt measures to ensure that lawyers are afforded sufficient time to advise their clients and assist them in connection with their defence.**
- **the law which guarantees access to case files is implemented in full and that lawyers are able to make copies of materials in the preparation of the defence of their clients as guaranteed by law. Such access should be afforded in all cases and any restrictions on access in particular categories of cases should ensure that rights under Article 14.3 are respected.**