

Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the right to education; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL TJK 1/2022
(Please use this reference in your reply)

11 March 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on minority issues; Special Rapporteur on the right to education; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/8, 44/3, 44/5, 43/4, 41/12, 42/16 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the use of lethal and excessive force against protesters in the Gorno-Badakhshan Autonomous Oblast (GBAO) of Tajikistan followed by the shutdown of mobile internet services and subsequent threats and harassment of the members of the Pamiri minority.

According to the information received:

Extrajudicial execution

On 25 November 2021, Tajik security forces carried a special operation in the village of Tavdem, Roshtqala district, Gorno-Badakhshan Oblast (GBAO), Tajikistan, allegedly aimed at arresting a local resident, 29-year old Mr. Gulbiddin Ziyobekov. According to the official account of the event, Mr. Ziyobekov resisted the arrest and was shot and killed. According to the information received, Mr. Ziyobekov was tortured before being killed. The man was wanted in connection with an alleged assault on a public official in early 2020.

Use of lethal and excessive force against protesters

On the evening of the same day, a spontaneous procession of relatives and neighbours of Mr. Ziyobekov brought his body to the central square of Khorog,

the capital of GBAO, demanding that the people who killed him be brought to justice. They were joined by several thousands of local residents in a protest.

The protest spilled over into violence as government forces used live fire to disperse the crowd, killing two members of the Pamiri minority Mr. Gulnazar Murodbekov and Mr. Tutisho Amirshoev and wounding 17 other protesters. Two of the protesters received serious injuries which caused disabilities for both.

During the mass demonstrations, the head of police in Khorog city and the prosecutor of Khorog were beaten by a group of violent individuals. Some violent individuals also cut down trees.

The protest continued for four days, with up to five thousand people remaining on the square day and night, most of them members of the Pamiri minority. The protest ended on 28 November 2021 with the establishment of a Joint Commission of representatives of the law enforcement agencies and civil society, mandated to investigate the killing of Mr. Ziyobekov and the events that ensued.

Prolonged internet shutdown

Almost immediately after the start of the protests on 25 November 2021, internet connection was blocked in the entire territory of GBAO and remains so, with access to internet available to only state institutions and local banks.

Because of the loss of connectivity, students in the older grades who planned to apply for a scholarship to receive a higher education abroad were not able to submit applications and/or take admissions tests. Senior pupils were forced to leave GBAO for other regions of Tajikistan to take online tests and/or submit their applications, in many cases at their own cost. Children from poorer families that could not afford a trip outside of the oblast were in a particularly vulnerable position, so their plans for a higher education were put at risk. Some students studying remotely were expelled from the universities as they were unable to attend the classes.

Internet shutdown reportedly caused disruptions to the work of diagnostic medical centers of GBAO which use tele-medicine as a mean to consult patients living in the remote areas.

It was reported that some business enterprises of the region were forced to shut down, being unable to operate without internet connection. This contributed to an increase of unemployment in the GBAO.

Many families are not able to sustain communications with their relatives abroad, adversely affecting the families of migrant workers.

Censorship of the media covering the situation in GBAO

In February 2022, the State Committee for National Security of Tajikistan sent letters to a number of Tajik media recommending that they abstain from covering the situation in GBAO.

Targeting of minority activists and participants of the protests

In the weeks following the protests, the regional public prosecutor's office and police initiated criminal cases against participants of the protests. Dozens of protesters were convicted and received imprisonment terms from 2 to 4 years for allegedly cutting down trees and beating the Head of the city police unit and the prosecutor. At the same time, actions by the state security detention group, commanders of the detention group who sanctioned the arrest and killing of Mr. Ziyobekov Gulbiddin and by those who resorted to the use of lethal force against protestors have not been investigated.

Representatives of the Pamiri minority activists were reportedly widely portrayed as criminals in the media and by public authorities. According to the statement by the Secretary of the Security Council of Tajikistan, as an aftermath of the protests, criminal cases were instituted against 16 'members of criminal groups'. The Governor of GBAO (appointed by the President of Tajikistan) publicly named several prominent Pamiri activists "leaders of the organized criminal group". Local TV channel "Badakhshan" broadcasted a documentary "The power of law" declaring the deceased citizens as criminals, and calling all the youth of Khorog criminals, portraying the GBAO as a rebellious and uncontrolled oppositional region.

Some members of the Pamiri civil society that participated in the Joint Commission also received summons from the regional public prosecutor's office and police for their role during the protests. An outspoken representative of the Pamiri diaspora was deported from Russia back to Tajikistan and arrested by Tajik authorities in December 2021.

Securitization of minorities

Since the end of November 2021, security checkpoints in GBAO have been reinforced and military personnel in Khorog has reportedly significantly increased. Many families who still bear the memories of the 1992- 1997 Tajik civil war are reportedly living in fear of a violent conflict and are afraid to leave the house or let their children out. It is reported that the Pamiri minority is widely underrepresented in the police and security forces operating in the GBAO, which adds to the fear and mistrust from the local population.

Checkpoints in GBAO received a list of local residents who allegedly participated in the protests and are prevented from leaving the territory of the GBAO region.

Without prejudging the accuracy of the information received, we are concerned over the allegations that the killing of Mr. Ziyobekov as well as of two protesters Mr. Gulnazar Murodbekov and Mr. Tutisho Amirshoev were not investigated and participants of the 25-28 November 2021 protests are being intimidated.

We are concerned over the allegations that following the use of lethal and excessive force by the Government forces, 2 protesters have received serious injuries which caused a disability.

Concern is also expressed at the fact that checkpoints in GBAO reportedly received a list of local Pamiry minority residents, who allegedly participated in the protests and should be prevented from leaving the territory of the GBAO region.

We express our concern over allegations that the apparent disregard of the grievances of the Pamiri minority and the securitization of the GBAO can lead to violence.

We express our concern over allegations that representatives of the Pamiri minority activists were widely portrayed as criminals in the media and by public authorities.

We express our serious concern over the internet shutdown and its effect on human rights in the Gorno-Badakhshan Oblast of Tajikistan. It is our firm belief that it severely impairs the realisation of the rights to safety and security, health, education, and the rights to freedom of expression, information, participation, association and peaceful assembly. We are alarmed at the ongoing and blanket nature of the shutdown. It is also of significant concern that a consequence of the shutdown may be the perpetration of violations and abuses of human rights and international humanitarian law.

The shutdown has made it more difficult for people to communicate with each other, for information to flow, for human rights defenders, journalists and others to monitor the situation in the region. The shutdown and its impact on the free flow of information from the area concerned appears to occur in a context of a continuous shrinking space for human rights defenders and journalists in Tajikistan, including those promoting the rights of minorities.

We are seriously concerned over the allegations that the State Committee for National Security of Tajikistan sent letters to a number of Tajik media recommending abstaining from covering the situation in GBAO. This move could lead to censorship, the suppression of critical thinking and other approaches contrary to human rights law.

Based on the above, we recommend immediate restoration of the internet connection in the Gorno-Badakhshan Autonomous Oblast as well as implementation of the conflict prevention measures in line with the international human rights standards.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations in the Gorno-Badakhshan Autonomus Oblast.
2. Please provide information on the type of orders and guidelines provided to the police and security forces managing the protest on 25-28 November.
3. Please provide information on measures taken by the Tajik authorities, including the police and security forces leadership, to carry out an immediate, impartial and transparent investigation, in accordance with applicable international standards, including, in particular, the Minnesota Protocol on the Investigation of Potentially Unlawful Death, into the use of force leading to the death of Mr. Gulnazar Murodbekov and Mr. Tutisho Amirshoev and serious injuries of protesters.
4. Additionally, please provide information on the factual and legal basis for the carrying out of a special operation in the village of Tavdem, Roshtqala district which resulted in killing of the 29-year old Mr. Gulbiddin Ziyobekov.
5. Please indicate when the internet and mobile communication will be restored to the Gorno-Badakhshan Autonomus Oblast.
6. Please provide information as to the allegations that Pamiri minority activists are being subjected to harassment and intimidation.
7. Please provide information on measures taken to prevent further escalation of violence in the region including by responding to the grievances of the Pamiri minority.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible of the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

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Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the articles 6 (1), and 26 of the International Covenant on Civil and Political Rights (ICCPR) acceded to by Tajikistan on 4 January 1999 and contrary to the article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which the State has been a party since 1995.

In connection with the above alleged facts and concerns, we would also like to refer to article 3 of the UDHR which declares that everyone has the right to life, liberty and security of person.

Furthermore, according to Principle 9 of the Principles of the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (resolution 1989/65 Economic and Social Council), there is an obligation to conduct thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death. The Minnesota Protocol on the Investigation of Potentially Unlawful Death which in 2016 updated the original UN Manual on the Effective Prevention of Extra-legal, Arbitrary and Summary Executions of 1991; and the UN Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (1989), states that an investigation must be a) prompt; b) effective and thorough; c) independent and impartial; and d) transparent. As also confirmed by the Human Rights Committee in its General Comment No. 31, a failure to investigate and bring perpetrators of such violations to justice could in and of itself give rise to a separate breach of the ICCPR.

Additionally, principle 20 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, states the families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.

We would like to draw the attention of your Excellency's Government to the article 21 of ICCPR, Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In particular, principle 12 of the Basic Principles provides that "everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the Universal Declaration of Human Rights and the ICCPR. Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14." These provisions restrict the use of firearms to situations of violent assemblies and provide that force and firearms may only be used as a last resort when unavoidable and require exercising the utmost restraint. In addition, pursuant to principle 5(c), law enforcement officials should

ensure the provision of timely medical assistance to anyone injured as a result of the use of force or firearms.

With regard to the freedom of peaceful assembly of the Pamiri minority, we would like to stress that in its recent concluding observations issued on the third periodic report of Tajikistan (CCPR/C/TJK/CO/3), the Human Rights Committee recommended that the Government of Tajikistan gives full effect to the right of every citizen to genuinely take part in the conduct of public affairs and fostering a culture of genuine political pluralism and refrains from using criminal laws as a tool to harass and exclude opposition members from meaningful participation in public life. The Committee also stated that Tajikistan should revise its laws and practices with a view to guaranteeing the full enjoyment of freedom of expression and peaceful assembly by everyone, taking into account the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression.

We recall that article 5 (i) and article 5 (ii) of the ICERD guarantee the right to freedom of movement and residence within the border of the State as well as the right to leave any country, including one's own, and to return to one's country.

We would like to recall your obligations under the article 27 of ICCPR and the UN Declaration on the Rights of Persons belonging to national or ethnic, religious or linguistic minorities. As a universal framework setting out the minimum standards of protection of minority rights, the Declaration reflects existing legal obligations sourced in international human rights treaties. We wish to make a particular reference to the articles 1, 2, 3 and 4 of the Declaration.

In this connection, we also wish to refer to the recommendations of the Forum on Minority Issues at its fourteenth session on the theme "Conflict prevention and the protection of the human rights of minorities" (A/HRC/49/81) which emphasize that most contemporary conflicts are characterized by the insufficient inclusion of minorities, often coupled with disregard for their identities and grievances as well as denial of their human rights.

We wish to recall that the Committee on the Elimination of Racial Discrimination in its concluding observations on the combined ninth to eleventh periodic reports of Tajikistan (CERD/C/TJK/CO/9-11) stressed the need to further enhance the Government's efforts to mount awareness campaigns, with a view to combating prejudices and negative stereotypes towards minority ethnicities, including Pamiri, and promoting understanding, tolerance and friendship among all ethnicities. We wish to emphasize that to address the root causes of violent conflicts, the recommendations of the Forum on Minority Issues at its fourteenth session on the theme "Conflict prevention and the protection of the human rights of minorities" (A/HRC/49/81) encourage states retraining from othering and promoting a narrative which can enhance solidarity and understanding within a society.

The complete shutdown of the internet and telecommunication networks contravene the fundamental principles of necessity and proportionality that must be met

by any restriction on freedom of expression. Shutdowns fail to reach the established test for restrictions to the right to freedom of opinion and expression under article 19(3) of the ICCPR, as well as for restrictions on the freedom of peaceful assembly and of association under articles 21 and 22(2) ICCPR. With regard to internet access, we also recall that the same rights that people have offline must also be protected online, see e.g. CCPR/C/GC/34 para. 12, UN General Assembly resolution 68/167, Human Rights Council resolutions 26/13 and 32/13, as well as the Report by the Special Rapporteur on the Freedom of Expression A/HRC/35/22 paras. 76 and 77. In this regard, we would further like to draw your attention to Human Rights Council Resolution 32/13, which “condemn[ed] unequivocally measures to intentionally prevent or disrupt access to or dissemination of information online in violation of international human rights law, and calls upon all States to refrain from and cease such measures”.

In the context of alleged negative impact of the prolonged internet shutdowns over the children’s education in the GBAO, we would also like to remind your Excellency’s Government of its obligations under the article 28 of the International Convention on the Rights of the Child (ICRC), to which the State has been a party since 1993.

Police brutality and other excessive use of force in light of the prohibition of cruel, inhuman or degrading treatment or punishment and, in situations of powerlessness, of torture, has been illustrated in the jurisprudence of international and regional human rights mechanisms, such as the Committee against Torture, the Human Rights Committee, the Inter-American Court of Human Rights and Inter-American Commission on Human Rights, and the European Court of Human Rights. Furthermore, certain weapons and other means of law enforcement have been widely recognised to be inherently cruel, inhuman or degrading by nature or design.

Furthermore, wherever there are reasonable grounds to believe that extra-custodial force amounting to torture or other cruel, inhuman or degrading treatment or punishment has been used, States have a duty to conduct a prompt and impartial investigation in order to ensure full accountability for any such act, including, as appropriate, administrative, civil and criminal accountability, and to ensure that victims receive adequate redress and rehabilitation.

In his report to the General Assembly, the Special Rapporteur on Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment reiterated States’ obligations in the context of policing protests, indicating that “no restrictions may be placed on the exercise of [the right to peaceful assembly] other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others”; “individuals cannot lose their protection against torture and other cruel, inhuman or degrading treatment or punishment under any circumstances whatsoever, including in the context of violent riots or unlawful protests”, and “failure to take all precautions practically possible in the planning, preparation and conduct of law enforcement operations with a view to avoiding the unnecessary, excessive or otherwise unlawful use of force

contravenes the State's positive obligation to prevent acts of cruel, inhuman or degrading treatment or punishment within its jurisdiction." (A/72/178, paras 15 and 62 (c)).