The judicial system of Tajikistan and the situation of the opposition movement “Group 24”: an assessment

Oct. 14th, 2015 Fabio Belafatti*

Abstract

This document provides an overview of the main features of the judicial system of the Republic of Tajikistan, with particular reference to its independence - or lack thereof - from the executive power and the issue of political usage of justice in the country. It then proceeds with an assessment of the situation of the opposition movement “Group 24” 1, a recently established opposition group, allegedly targeted with political persecution. It concludes (in light of international experts and organizations views about the political, judiciary and human rights situation of the country) that the risk of human rights abuse against members of opposition groups is extremely high.

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1 Also known as “Group of 24”
The judicial system in Tajikistan

Political framework

In the opinion of many prominent analysts of Central Asian politics, since achieving independence in 1991 Tajikistan’s political system has been characterized by a high degree of region-based factionalism (which escalated into a ferocious civil war between 1992 and 1997) coupled with strong authoritarian tendencies from the president of the country, Emomalii Rahmon (Эмомали Рахмон), leader of the faction that emerged victorious from the civil war. The political dynamics of Tajikistan have at times been described as approaching the conditions of a failed state, with a tendency to significant degrees of “warlordism” and military confrontation between the current leadership and the forces of the opposition, defeated during the 1992-1997 war.

The American political scientist Jesse Driscoll of the University of California explains in his recent and acclaimed book how warlordism was instrumental in how the regime of President Rahmon was constituted following the civil war:

“A local puppet president served as a placeholder for opaque coalition politics. Many warlords became violence subcontractors for the regime. Some did not. Complicated bargaining followed. Back-room deals were struck. A great deal of property changed hands. Peace emerged as local criminals developed techniques to hold civilians hostage and re-write local history to their advantage. In other words, the warlords became the state.”

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In parallel with the consolidation of a political system now widely considered as non-democratic, in which elections are routinely assessed by international organizations such as the OSCE as being neither free nor fair, Tajikistan witnessed the establishment of judicial practices that have been often described as falling significantly below international standards in terms of fair trial, protection against torture, independence of the judicial system from the executive power, protection from arbitrary prosecution, and rule of law in a broad sense.

Access to an independent judicial system and lawyers

The judicial system of Tajikistan has been described as severely deficient in a number of reports from a broad range of sources. The 2008 “Rule of Law Initiative” report, funded by the OSCE, the Swiss cooperation organization and the Open Society Foundation, has assessed the country’s judicial system according to 30 core factors, none of which was rated positively. Of these, 13 were rated “neutral”, while 17 as “negative”. It is relevant to note, for the purpose of this assessment, that those rated negatively also include the judicial jurisdiction of civil liberties, about which the report’s authors commented that:

“An array of civil and human rights violations, including the right to a fair trial and effective counsel, have been catalogued in numerous reports by international and local NGOs; however, thus far the judiciary has been reluctant to provide effective remedies to victims of these violations.”

Corruption is allegedly widespread in the country’s judicial system: Transparency International points out that the judicial system is “subject to widespread

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corruption”, which casts doubts on the possibility to secure fair and independent trial in the country. Problems occur in most areas of the judicial system (In a recent report, after summarizing severe shortcomings in guarantees and implementation of commercial and financial laws, the European Bank for Reconstruction and Development has ranked Tajikistan’s state of commercial and financial laws in the second-worst position across the whole FSU after Turkmenistan).

Recent assessments from Freedom House, leading watchdog in monitoring the democratic development of the region, have consistently ranked Tajikistan’s democratic progress and judicial system in very negative terms. Freedom House employs a 1-7 rating scale in which 1 indicates the highest level of democratic progress and 7 indicates the lowest. The 2015 assessment of Tajikistan, which takes into account political developments in the country between Jan 1st and Dec. 31st, 2014, assigns Tajikistan’s judicial framework a 6.5 score, fully within the “consolidated authoritarian” side of the spectrum, and very close to the far end of the rating scale, in line with the regional average of 6.65. Tajikistan’s judicial framework gets the third-worst score across the 29 countries of the post-Communist world. As a term of comparison, Lithuania’s judicial system is rated with 1.75, indicating a much more consolidated independence and freedom of the judicial system.

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10 EBRD, Commercial Laws of Tajikistan – April 2012 – An Assessment by the EBRD, Office of the General Counsel; “The judiciary is politically dependent and the possibility of winning a case against the government is barely non-existent”, p. 5
According to *Freedom House* researchers, which have been ranking Tajikistan among the “consolidated authoritarian regimes” since 2009, the “Judicial Framework and Independence” factor has steadily worsened over time from a score of 5.75 in 2006 to the current one of 6.5. No sign of improvement has been registered in the rankings, and a further step towards the lowest end of the spectrum was registered in 2014, reflected in the 2015 assessment, largely as a result of the situation of Group 24.

Lawyers who attempted in the past to represent real or perceived members of opposition have been particularly targeted, through smear campaigns, politically motivated criminal charges, arrests and, at least in one case, a prison sentence following an unfair trial. Reprisals against independent lawyers made it near impossible for opposition members facing criminal charges to secure independent legal counsel.  

The situation of “Group 24”

**Human rights situation and risks for opposition groups**

Appeals to reform of the judicial system date back to the early 2000s, but they do not seem to have brought about significant change. Concerns for human rights violations have been raised over the last few weeks – among others, by the United Nations’ Human Rights Office - as a result of the banning of the country’s only opposition party. *Human Rights Watch* recently listed a considerable number of issues with human rights violations in Tajikistan, with the following comment about the use of torture in the country’s justice system:


“Torture is often used to coerce confessions and the right to counsel is routinely denied in pre-trial custody. In January, UN Special Rapporteur on Torture Juan Mendez stated in his report on his May 2012 visit to Tajikistan that with regard to torture, “numerous loopholes and inconsistencies” persist in criminal procedure and law enforcement practices. In July 2013, the Coalition against Torture, a group of Tajik NGOs, reported that despite some reforms, claims of torture by detainees have increased since the beginning of 2012.”

The United States Department of State’s assessment of the human rights situation in Tajikistan agrees with the above-mentioned report, listing a long series of cases of arbitrary or unlawful deprivation of life, politically-motivated disappearances, torture and other cruel, inhuman or degrading treatment or punishment, arbitrary arrest or detention, and shortcomings in trial procedures - in many cases involving opposition leaders or movements – as well as significant human rights issues in the country’s prisons.20

Within this context, the situation of the opposition movement “Group 24” can be described as critical.

Repression against “Group 24”

Group 24 is a small opposition movement - operating mostly in exile - that focuses on criticism of alleged corruption, nepotism, thievery behaviours and clienteles in the administration of president Rahmon.21 The movement was outlawed by the government. Its impact on the Tajik political sphere is difficult to assess due to lack of free and independent opinion polls, but it is estimated to be minimal given the country’s passive political atmosphere (An appeal by Group 24 to hold a demonstration in Dushanbe in Oct. 2014 did not result in any mobilization).22 Despite all this, the government seems to have embarked upon

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20 United States Department of State, op. cit.
21 See for example current “Group 24” leader Sharofiddin Gadoev’s talk at https://www.youtube.com/watch?v=ccKJaqvAj8
a full-scale operation of dismantlement of the group, which has left many observers shocked for its violence, rapidity and effectiveness. Group 24 members have been arrested, harassed, attacked and, in at least one known case, murdered:

- The founder and former leader of Group 24, Umarali Quvatov, fled Tajikistan in 2012, was arrested in Dubai, released in 2013, and moved to Bishkek in 2013-2014. Fearing persecution from the Tajik authorities, he fled to Istanbul, where he and his family were poisoned in March 2015. While his family survived, Quvatov was shot and murdered after falling ill from poisoning, in what was the first successful assassination of a member of the Tajik opposition. In Jan. 2015, Freedom House had expressed concerns about Quvatov’s security.

- The new leader of the group, Sharofiddin Gadoev, currently lives in exile in Spain, where he fled (after a period of exile in Russia) fearing the threat of violence against his family (the Tajik police had detained his parents, sister and brother-in-law in Oct. 2013).

- Group 24 member Maksud Ibragimov founded the “Youth for the Revival of Tajikistan” movement in Oct. 2014. The government reacted by making the movement illegal. Upon request from Tajikistan, he was temporarily detained in Russia (where he lives), but released when the Russian authorities learned that he holds Russian citizenship. Later, in Nov. 2014, he was attacked and stabbed six times by unknown assailants in Moscow. Maksud survived but later his family reported that his Russian citizenship had been revoked; he was abducted in Moscow in

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23 This section is compiled based on information collected and reviewed by a team of researchers who monitors the development of the situation of Tajikistan’s political opposition. The team includes Dr. John Heathershaw, David Lewis and Edward Lemon of Exeter University, and Prof. Alexander Cooley of Barnard College, who is also director of the Harriman Institute at Columbia University. Information sources used by the team include, among others, TojNews, a Tajik opposition website confirmed to be reliable based on past experience and/or when corroborated by other sources. See for example TojNews, Опубликованы имена заключенных членов ОО Молодежь Таджикистана за возрождение, Jan. 27th, 2015, available from: http://tojnews.org/ru/news/opublikovany-imenazaklyuchennyh-chlenov-oo-molodezh-tadzhikistana-za-vozrozhdenie


Jan. 2015 and re-appeared in detention in Tajikistan, where he was charged with “extremism” and sentenced to 17 years in prison.26

- **Shabnam Khudoydodova** had been living in Moscow but learned of plans to abduct her and fled to Belarus, where she was arrested on request of Tajikistan in summer 2015.27 **EU countries are asking Belarus not to extradite Ms. Khudoydodova.** The Tajik authorities have also questioned her family members.

- **Sobir Valiev**, deputy leader of Group 24, sought refuge in Moldova where he was arrested in Aug. 2015 upon request of Tajikistan. Moldovan authorities have released him in Sept. 2015, but are still considering extradition.29

- **Sulaimon Davlatov**, a long-time resident of St Petersburg, was travelling through Finland to Lithuania when the Finnish authorities seized him on 20 February 2015 on the basis of Interpol arrest warrant. He was released on 23 March 2015, as Tajik authorities failed to provide documents to support their extradition request.30

- Group 24 member **Umedjon Solihov** is currently in jail following his arrest in Dec. 2014, when he returned to Tajikistan after threats had been made against his family. He was sentenced to 17.5 years in prison in March 2015 for insulting the president and a mix of “extremist activity”-related charges.31

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29 Radio Ozodi, Собир Валиев вышел на свободу, Sept. 9th, 2015, available from: [http://rus.ozodi.org/content/sobir-valiev-free-from-detention-moldova/-27232386.html](http://rus.ozodi.org/content/sobir-valiev-free-from-detention-moldova/-27232386.html)

30 Radio Ozodi, Задержанный член Группы-24 освобожден в Финляндии, Mar. 24th, 2015, available from: [http://rus.ozodi.org/content/article/26916803.html](http://rus.ozodi.org/content/article/26916803.html); see also for comments on the issue: E. Lemon, Tajikistan Exploiting Interpol to Pursue Critics Abroad, Mar. 5th, 2015, Eurasianet, available from: [http://www.eurasianet.org/node/72396](http://www.eurasianet.org/node/72396)

- Two more group members, Sherzod Komilov and Nematullo Kurbonov, share a similar situation, having also returned to Tajikistan following threats to their families (Kurbonov returned in Oct. 2014, while the date of Komilov’s return is unknown). Arrested by the Tajik authorities, their status and whereabouts are currently unknown.32

- Four more members of Group 24 have been arrested in Russia upon request of Tajikistan: Abdurahim Vosiyev was arrested in Nov. 2014; one month later, Rosiya Abdurahmonova was in turn arrested in Novosibirsk. Later, in Apr. 2015, Russian authorities detained Loic Firuz. All three are known to be still detained in Russia at the moment. Another member of the group, Karim Obidov, was also arrested in Russia, but the date of his arrest and his current situation and whereabouts are not known to human rights organizations.

Conclusions and recommendations

According to John Heathershaw, associate professor at Exeter University and one of the leading foreign experts on Tajik politics, the country is led by a “corrupt and barely competent regime”, “the rule of law is entirely absent”, and Rahmon’s administration is in full slide towards tyranny.33 Multiple observers and human rights organizations agree with such assessment, having repeatedly accused the Tajik authority of using fabricated allegations to persecute political opponents. Strong criticism has been made about Tajikistan’s habit of instrumentally using Interpol and other countries’ judicial systems to target opposition leaders living abroad,34 particularly those from Group 24. International observers warn that opposition members risk torture, mistreatment, and unfair trial if extradited to Tajikistan.35 Regardless of the

34 Ibid.
validity - or lack thereof - of the charges brought by the Tajik authorities against political opposition members, the scenario of severe lack of independent judiciary, absence of fair trial guarantees and human rights protection in prison, disappearances, mistreatment, torture detailed by international experts leads to the conclusion that an extradition to Tajikistan carries a very significant risk of human rights abuse, and that protection is badly needed. Moreover, as a significant number of arrests, persecutions and assaults against members of Group 24 were carried out in the territory of, or by the authorities of the Russian Federation, it is also clear that the latter country or any other country where security services cooperate with the Tajik authorities in the abduction, unlawful transfer, imprisonment or torture of individuals cannot be considered safe either.

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