

12 September 2017

Business meeting 3. Democratic institutions, including:

- democracy on national, regional and local levels
- democratic elections.

In any constitutional state, institutions of civil society are a condition for a democratic country. Democratic states cannot exist without democratic institutions and a civil society. A civil society includes a free population with equal access rights to political and social resources of the state. Institutions of civil society, first of all, are elements of a democratic state which include political parties, non-governmental organizations, public associations and organizations, corporations and any public enterprises. Even though Tajikistan constitutionally has a multi-party system of government, in reality it is a one-party state where the power rests in hands of one ruling political party. Other parties are formally recognized in an attempt to show to the whole world that Tajikistan is a legitimate democratic country.

The legal profession and non-governmental human rights groups are institutions of civil society. 3 years ago, in Tajikistan, 3800 non-governmental public organizations were registered; in 2017, that number is around 1000. One year ago, in Tajikistan, there were 5 active bar associations and 2000 lawyers; now, there is only one active bar association lawyers with barely more than 300 lawyers. All of this was connected to a number of unconstitutional laws that were adopted during last two years.

According to the adopted amendments to the law "About Public Associations" in 2015, now all contributions in the form of grants from donors to NGOs will be under the absolute scrutiny of intelligence agencies. All projects undertaken by NGOs, donations and expenses are subject to government inspection and taxation. According to the adopted amendments to the anti-terrorism law, even international organizations are subject to such inspections, ostensibly for the purpose of identifying possible violations of terror finance laws. In 2015, a new law on the legal profession and lawyer activity was introduced and in 2016, it was amended such that lawyers who were indicted for a crime and resigned from their former place of work because of violation of labour rules had no right to practice as a lawyer. At the same time, statutory limitations period did not apply. This meant that a person who committed a crime 20, or even 40 years ago, or who resigned 25 years ago because of violation of labor rules has no right to be a lawyer. By contrast, there is no such requirement in the National Security Act imposed on members of the military, courts, or the Office of the Public Prosecutor. In other words, such strict requirements applied to lawyers who were members of the bar association rather than those working for government authorities.

The legal profession is a public organization and such strict requirements are absent with respect to the law enforcement authorities, prosecutor's offices and in judicial courts. The legal profession, as a public organization, was free and independent of government control. After adoption of new laws, now lawyers are under the supervision

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of the Ministry of Justice. All these limiting laws were adopted because of courageous lawyers who criticized law enforcement agencies and the system in general.

Absent a civil society, there are no free elections. Having only one leader for 26 years has a significant impact. Elections take place under duress, and results are often determined by local governments in advance. Even the list of deputies is formed by authorities. Those not on the list of acceptable candidates who run for office end up on the black list, likely to face future problems. State employees such as teachers, doctors and social workers, are attractive to the committee that selects electors. All school and pre-school institutions are presented as sites for holding elections.

State authorities have a list of nominees for 25 years, according to which the same individuals are elected in turn to parliament or as ministers. In such a situation, any semblance of free elections disappears. In 2005, two lawyers, Faiziniso Vohidova and Nizomiddin Begmatov, nominated themselves for parliamentary elections. After the election, both were arrested on preposterous charges. In 2015, two political parties, the CST and the IRPT, which had members in parliaments for 10 years, were voted out of parliament, following which the IRPT was declared illegal and more than 200 members were arrested, both members of its political council and rank-and-file members. Citizens have absolutely no right to choose their political representatives and no right of being elected.

On behalf of Human Rights Vision Foundation we appeal to Tajikistan authorities to overturn the laws that contradict to democratic principles; to provide to representatives of civil society unimpeded access to propose own candidacy for election of all levels; to provide access to international organizations to independent monitoring of holding elections in order to provide to international community the impartial assessment of their legitimacy.

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