

ABOUT THE LEGAL RIGHT NOT TO USE LEGAL RIGHTS IN TAJIKISTAN

By Nargis Zakirova, journalist, Tajikistan

Tajik journalists do not exercise their rights. Frightened and horrified by the last decade of violence against journalists, they chose the path of self-censorship and thus try not to get in conflict with any legal action, neither for nor against them.

«I personally have not heard of any judicial proceedings concerning journalists in the past few years,» said. Lolita Turaeva, editor of Krim-info, an independent newspaper. «Usually the authorities treat journalists another way. An author who does not satisfy the interests of this or that body or influential person is summoned before the law enforcement agencies, questioned about where he (or she) got their facts, and then intimidated and warned about the possible consequences. Thus, no cases have been sent to trial: there is just the so-called «lynch law», where those carrying guns carry out the sentence.»

TAKE NO RISKS

According to Vecherny Dushanbe reporter, Pavel Geivandov, the reason for the absence of judicial proceedings concerning journalists and the media is that Tajik journalists are wary of dealing with risky topics. He is certain that the murder of 78 journalists during the last ten years is a serious warning.

«Over the past few years there have been no critical reports in the pages of the Tajik newspapers,» said Djunaid Ibodov, legal adviser with Internews of Tajikistan, «criticizing any official, either directly or indirectly. Only the President is free to do this.» This is fixed be-

cause there is no such genre as press investigation for the greater public interest in Tajik journalism. A journalist could then willingly or unwillingly mention acute problems, by exposing, for example, corruption in this or that financial institution. This could provoke officials to take legal proceedings

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against the journalists and their papers in a civilized way. The availability of such cases presupposes a definite level of journalists. This cannot be said about our journalists, who try not to mention urgent problems, and work with self-restraint and self-censorship. They do not mention these problems, not because there aren't any, but because they are afraid of physical violence.

NO CHANCE TO WIN

What is more, the judiciary is incompetent as far as the protection of honour and dignity is concerned. Judges do not practice in this field and there are no experts trained in the higher educational establishments at all.

More than that, many of them have never even seen the Tajik Laws «On press and other media» and «On television and radio broadcasting.» Many Tajik journalists with whom it was possible to speak, claim they have no chance to win such a case, because the Tajik judiciary are not fully independent. As Mukhtor Bokizoda, chairman of the Foundation for the Memory and Protection of Journalists' Rights said: «In the past two years, 25 journalists have appealed to the Foundation for legal aid, but none of these cases were followed in court.» The last proceedings were conducted in 1997 and concerned the editors of two independent newspapers, Istiklol (Abdulfattoh Vakhidov) and Samar (Saifiddin Dostiev), and three journalists, Faizullo Ubaidov, Amonullo Abdullaev and Khudoidoda Sodikov. They published an article criticizing the work of a joint-stock company «Randjbar», and accused its official and unofficial owners, which included Kurbonally Mirzoaliev, head of the Vosei district khukumat (administration), of financial mismanagement.

Four months later the editors were summoned to the Oktaybrsky district court of Dushanbe, where Mirzoaliev has filed a claim to protect his honour and dignity. The court judged in favor of the defendants and partially in favor of the claimant. In December 1998 Mirzoaliev again filed his claim, this time in the Vosei district where he was still chairman of the local ad-

ministration. The editors did not attend the court session. Soon the Vosei district militia placed the journalists under guard in the newspaper buildings, in Dushanbe, the capital of Tajikistan, and brought them to the region. The journalists were interrogated for two days and then, for no clear reason, they were released.

According to the journalists themselves, their release was provoked by an appeal by journalists and public organizations (the Union of Tajik Journalists and the Foundation for the Memory and Protection of Journalists' Rights) to the republic's General Prosecutor's office, Parliament and President. At the same time, the Vosei district court sentenced the articles' authors to two years in custody, but again for no clear reason, they were released from custody one month later.

SELF CENSORSHIP

Kironshokh Sharifzoda, chairman of the Association of Journalists «Social partnership» said: «Tajik journalists have a very low level of legal knowledge, therefore they often themselves abstain from proceedings. On the other hand, the self-censorship peculiar to all publications and journalists gives no ground for proceedings. Furthermore, in the Tajik media there is a stereotype that goes «it is better to make it up than go to court.» In support of the above statement

is the vivid example of a case against the opposition newspaper. At the end of 1997 the Oktyabrsky district court in Dushanbe accepted a claim against this newspaper by Safarali Kendjaev, Peo-

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ple's Deputy and chairman of the Committee for Parliamentary Legislation, for the protection of his honour and dignity. The court accepted his claim, but no judicial proceedings were held. Some time later, the two conflicting parties published a joint statement in Djunbish stating that in the interests of stability and preservation of peace in the country they had come to an amicable agreement.

Some journalists are sure that the authorities abuse the situation. For example, some private radio stations in Dushanbe have been unable to obtain broadcasting licenses for the past four years. (There are no independent radio stations in Dunshanbe). The stations' founders claim that the authorities cannot give a reason why they do cannot get licenses. According to the Law «On television and radio broadcasting» the founders do not have the right to call into question the competency

of authorities in court, but they are not in a hurry to take legal proceedings against the authorities anyway. Andrei Sidorin, one of the private radio NIC holders who cannot obtain a broadcasting li-

cense is certain that «If the founders and journalists were consolidated, it would be possible to appeal collectively to the courts, and even win a trial. However, some are afraid to disturb their good relationship with the authorities and refuse to act. No one wants «to buck the system».»

Shakhinisso Nadjmiddinova, media assistant of the OSCE mission in Tajikistan, is sure that judicial proceedings between journalists, the media and the authorities will be quite possible in the nearest future, because any activities by the authorities cause counteraction from the developing media. «We need a precedent,» she believes. Other experts in the media sphere are sure that too many problems have been accumulated to be settled in anything other than a civilized way. What is more, they have seen the first encouraging weak shoots of independence in the courts.