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**Torture and ill-treatment, human rights violations in
the armed forces, death penalty, domestic violence,
LGBT, persons with disabilities, freedom of
association**

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Introduction

This document was produced by the NGO Coalition against Torture and Impunity in Tajikistan (further Coalition), uniting 12 human rights groups and nine independent experts, International Partnership for Human Rights (IPHR, Belgium) and Helsinki Foundation for Human Rights (HFHR, Poland).

The submission covers developments regarding torture and ill-treatment, human rights violations in the armed forces, the death penalty, domestic violence, LGBT persons and persons with disabilities since the second cycle of the Universal Periodic Review (UPR) in May 2016.

Torture and ill-treatment

Despite positive steps in recent years, torture and other forms of ill-treatment are still pervasive problems in Tajikistan.

The authorities do not publish unified and comprehensive statistics on complaints, investigations and convictions relating to torture and other forms of ill-treatment. Some government agencies release their own statistics at press conferences and in government reports to UN bodies, but they only cover crimes opened under Article 143.1 (“torture”) although cases involving allegations of torture and other forms of ill-treatment are often opened under other articles of the Criminal Code such as “abuse of power”, “exceeding official duties” or “failure to carry out or inappropriately carrying out duties”. Members of the Coalition registered 44 new cases of men, women and children involving allegations of torture and other forms of ill-treatment in 2018, 52 in 2019 and 37 in 2020. The vast majority of cases originate during preliminary investigations, as well as in the armed forces.

Many cases are not reflected in statistics as victims and their relatives do not pursue complaints because of lack of trust in the criminal justice system and fear of reprisals from law enforcement agencies.

In the period under review the Coalition noted a general trend of law enforcement officials using torture methods that do not leave visible injuries likely to be detected by forensic medical experts. The Coalition recorded an increase in the use of electric shocks, mock rape and threats of rape in relation to males. In 2019, the Coalition recorded three cases where detainees were allegedly injected with psychotropic substances against their will by police, resulting in them partially losing consciousness and muscle control.

The Coalition is aware of some criminal cases in recent years where perpetrators have been brought to justice and handed down adequate sentences, but in the large majority of cases impunity persists. In 2018, perpetrators of torture or other ill-treatment were convicted in two criminal cases; in 2019 – in 2; in 2020 – in 1.¹

GOVERNMENT MEASURES TO ADDRESS CONCERNS OF TORTURE AND ILL-TREATMENT

In the period under review, the government has taken measures to strengthen the prevention of torture and ill-treatment and addressed several recommendations issued by UN bodies.

1 Another case was opened in 2020 but has not come to court yet.

The authorities adopted the National Action Plan for the Implementation of the Committee against Torture (CAT) recommendations for 2019-2022; a Judicial Legal Reform Programme for 2019-2021; an “Instruction on Methods for Prosecutorial Supervision of the Legality of Prevention, Detection and Investigation of Torture”; and a law “On Amnesty”.²

Significant positive steps include:

- A series of legal amendments strengthening fundamental legal safeguards to prevent torture and ill-treatment in detention signed by President Rahmon in May 2016.
- The introduction of a procedure by Ministry of Justice and the Ministry of Health and Social Protection of the Population in May 2018 to guide medical personnel when providing assistance to detainees and prisoners and the introduction of a medical form for recording evidence of torture and ill-treatment.
- Legislation further strengthening safeguards in detention signed by the President in January 2020, especially in regards to minors.³
- Increased sanctions for the crime of torture introduced in January 2020.
- The adoption of amendments in July 2020 removing the “gravity of the punishment” as grounds for remand in custody
- The enactment of legislation in February 2021 stipulating that lawyers need only present their license to gain access to detainees.

FUNDAMENTAL LEGAL SAFEGUARDS

As mentioned above, on 14 May 2016, the President signed amendments to the Law on Detention Procedures and Conditions for Suspects, Accused Persons and Defendants (further Law on Detention Procedures) and to the Criminal Procedure Code (CPC), improving legal safeguards in detention for those held under criminal proceedings. For example, the amendments provided for improved detention registration procedures and the rights to promptly inform family and legal counsel. The amendments also stipulated that detention begins from the moment of de-facto deprivation of liberty and that the identity of all detaining officers should be recorded. In addition, an obligatory medical examination was introduced prior to placing a suspect in a temporary police detention facility.⁴

On 2 January 2020, President Rahmon signed laws and amendments relating to torture/ill-treatment, some of which further strengthened legal safeguards in detention particularly in regard to minors.

On 4 July 2020, amendments were made to the CPC removing “gravity of the punishment” as grounds for remanding a suspect in custody. Also, on 2 February 2021, amendments to the Law on Detention Procedures entered into force, meaning a lawyer can now access detainees on the basis of the legal license, and no longer requires permission from the investigator.

2 For further information, see <https://www.iphronline.org/tajikistan-joint-ngo-submission-under-the-committee-against-torture-s-follow-up-procedure.html>

3 Refer to <https://www.iphronline.org/tajikistan-joint-ngo-submission-under-the-committee-against-torture-s-follow-up-procedure.html> for more detailed information.

4 See further information on <https://www.iphronline.org/wp-content/uploads/2019/06/Tajikistan-torture-submission-1.pdf> and <https://www.iphronline.org/tajikistan-torture-ill-treatment-the-death-penalty-and-the-shrinking-space-for-ngos.html>

However, the above amendments are not consistently implemented in practice. Most allegations of torture and ill-treatment continue to originate in the time between the arrest and the placing of the suspect in a temporary police detention facility.

In addition to ensuring the consistent implementation in practice of existing legal safeguards, further amendments are needed. For example, Article 92, part 3 of the CPC, which applies to adults and minors alike, provides that a maximum of 72 hours may elapse from the moment of apprehension until a detainee is brought before a judge. The HRC and the Special Rapporteur on torture recommended that this period be limited to a maximum of 48 hours. In paragraph 83 of its 2007 General Comment No. 10, the Committee on the Rights of the Child (CRC) recommended that for minors this time period should not exceed 24 hours.

ACCESS TO LAWYER

After the May 2016 amendments the CPC now unequivocally stipulates that detainees are entitled to access to a lawyer as of the moment of their actual detention. However, this provision is not consistently implemented in practice.⁵

The February 2021 amendments clarified that lawyers need only show their practice license in order to access their clients in detention; this legislation applies to all types of detention facilities in the country. This is a significant development, but further monitoring is required to assess its implementation.

Independent lawyers faced major obstacles to accessing their clients in pre- and post-trial detention facilities. In the period under review, they were typically refused access to detainees held in pre-trial detention facilities under the State Committee for National Security. Staff of investigation-isolation facilities (SIZOs according to the Russian acronym), often referred to internal regulations preventing them from granting access to lawyers.

When entering a temporary police detention facility, SIZO or post-trial facility lawyers are typically requested to hand over all technical equipment which could help them record evidence of torture such as dictaphones and mobile phones.

The Coalition regularly receives reports of lawyers not being allowed to conduct confidential meetings with clients. Instead, police or security guards are often present, despite the fact that domestic law provides for the confidentiality of these meetings.

Lawyers often come under pressure when lodging complaints against torture and face prosecution through fabricated criminal cases. Lawyers working in rural regions are particularly affected.

ACCESS TO EFFECTIVE MEDICAL EXAMINATION

Despite improvements, significant obstacles remain to detainees' access to effective medical and psychiatric examinations.

5 See further information on <https://www.iphronline.org/tajikistan-torture-ill-treatment-the-death-penalty-and-the-shrinking-space-for-ngos.html>

The 2016 CPC amendments stipulate that detainees should undergo a medical examination before being transferred to a temporary detention facility. Article 94, part 4 also states that the suspect or the lawyer can request that the examination be conducted by an independent doctor or forensic expert. However, to date, Tajikistan has not regulated the activity of independent forensic experts and there are no independent forensic medical institutions in the country.⁶

On 1 May 2018, the Ministry of Justice and the Ministry of Health jointly approved the “Procedure for Administering Medical Assistance to Detainees and those Serving Criminal Penalties”. This document includes a separate medical form, entitled “Protocol for Medical Certification of Prisoners”, which is designed for and used by doctors in the penitentiary system during medical examinations of alleged victims of torture and ill-treatment.

Despite extensive trainings conducted for medical staff on implementing the new procedure, the forms are often not filled in correctly. Medical personnel often refrain from recording evidence of torture for fear of reprisals from law enforcement agents.

MONITORING OF CLOSED AND SEMI-CLOSED INSTITUTIONS

Tajikistan lacks independent monitoring mechanisms to effectively prevent and detect torture and ill-treatment in detention. Tajikistan has not ratified the Optional Protocol on the Convention Against Torture (OPCAT), often citing financial limitations. The International Committee of the Red Cross has not had access to detention facilities in Tajikistan for the purpose of monitoring since 2004.

A Monitoring Group was established under the Ombudsperson’s Office in 2014, and conducted approx. 15 visits per year, not enough to function as an effective safeguard against torture. In the past two years it has not conducted any visits. The Group includes representatives of civil society organizations but they are not permitted to conduct any visits without Ombudsperson Office staff.

Civil society groups do not have independent access to detention facilities for the purpose of human rights monitoring.

In a positive development, the Strategy for Reforming the System of Implementation of Criminal Punishments for the period until 2030 was approved by government decree (No. 385) on 25 June 2020, and on 25 February 2021, an Action Plan was adopted covering 2021-2025, which provides for the conduct of independent monitoring of places of deprivation of liberty.

INVESTIGATIONS OF ACTS OF TORTURE

Complaints about torture and ill-treatment are often not investigated effectively because the investigating institutions are not sufficiently independent.

No separate and independent mechanisms capable of carrying out effective criminal investigations and prosecutions have been set up in Tajikistan despite recommendations by the CAT, the Human Rights Committee (HRC) and the Special Rapporteur on torture. The authorities have repeatedly stated that what they claim to be a low number of torture cases does not warrant this. However, when using this

6 See further information on <https://www.iphronline.org/tajikistan-torture-ill-treatment-the-death-penalty-and-the-shrinking-space-for-ngos.html>

argument, they refer only to the number of cases opened under Article 143-1 (“torture”) of the Criminal Code, whereas most cases involving torture and other ill-treatment are opened under other articles of the Criminal Code, such as those punishing “negligence”, “abuse of authority or duty” or “violating the code of military conduct”.

The Prosecutor General’s Office, through dedicated units of prosecutors, is tasked with leading investigations into cases opened under Article 143-1, but even in these cases investigative activities are often conducted by police. When complaints are submitted to law enforcement agencies, the security service of the respective agency reviews the complaint, but the institution inevitably lacks independence because personnel of the same agency are implicated in the complaint. If the agency decides that there are insufficient grounds to warrant opening a criminal case, domestic legislation does not require it to forward information about the case to the Prosecutor’s Office.⁷

When a complaint is lodged with the Prosecutor General’s Office against the decision of a local prosecutor’s office not to open a criminal case into allegations of torture/ill-treatment or to suspend the investigation, the Prosecutor General’s Office often refers the case back to the same local prosecutor’s office if it considers that the case needs further checking. In this way cases can be bounced back and forth between prosecutors’ offices for months or even years.

On 7 September 2019, the Prosecutor General adopted an “Instruction on Methods for Prosecutorial Supervision of the Legality of Prevention, Detection and Investigation of Torture”, containing key principles outlined in the Convention against Torture and the Istanbul Protocol. It sets out a detailed mechanism for the investigation of allegations of torture and establishes a step-by-step procedure for the medical examination of victims based on the standards of the Istanbul Protocol. The Instruction is a binding document for employees of prosecutors’ offices. It is still too early to assess its implementation, but the NGOs jointly submitting this document welcome its adoption and call for its consistent implementation.

Female detainees who are victims of rape face major obstacles when seeking justice. The procedures required to pursue a complaint can often lead to the re-traumatization of the victim. Domestic legislation does not prescribe a female prosecutor for such cases and the context in Tajikistan often results in the family and the general public blaming the victim.

COMPENSATION FOR MORAL HARM

Domestic legislation does not list moral damages sustained through torture and ill-treatment as grounds for compensation, but in practice it has been possible to file suits in such cases. In a positive development, in March 2021, the military court of the Dushanbe Garrison partially satisfied claims, for the first time for compensation for moral harm in the case of a wife and a minor child of a torture victim.

Most often, however, the amounts granted are neither fair nor adequate and have declined considerably in recent years. We are particularly concerned at a recent case involving four high-ranking law enforcement officials who had been convicted of torture and ill-treatment. In 2020 the court ruled against granting compensation to the victims stating that the State is not responsible for the actions of the officials who violated the right to be free from torture in their exercise of state powers.

⁷ Refer to <https://www.iphronline.org/wp-content/uploads/2020/03/CAT-Tajikistan.pdf> for further information on the prosecutors’ offices’ lack of effectiveness and independence.

Domestic legislation does not provide victims of torture with other forms of reparation such as rehabilitation, satisfaction or guarantees of non-repetition.

Human rights violations in the armed forces

On 2 February 2021 a new law “On Military Duties and Service” was adopted. The organizations issuing this document welcome the fact that the Law establishes clear procedures and responsibilities for medical examinations and gives parents of 16-year-olds the right to be present during the first stages of registration for military service.

However, we are concerned that unlike its predecessor, the new law does not provide for the right to a civil alternative to service in the army. De facto, young men in Tajikistan have not been able to opt for alternative service because although the right was provided for, domestic legislation did not set out regulation for the necessary procedure. The removal of the right appears to be a step in the wrong direction.

Article 37 of the new law establishes a new way of completing military service by joining reserve units subject to payment of a fee. The organizations are concerned that the vaguely formulated wording of the law might open the doors for corruption. The law does not specify selection criteria and the size of the fee is unclear. There are also concerns about lack of transparency about how the fees will be used. The law contains no information about this and the budget of the Ministry of Defense is not publicly available.

TORTURE AND OTHER ILL-TREATMENT

Torture and ill-treatment remain common in the army and no effective measures have been taken to prohibit and eliminate sexual, physical and psychological abuse. Several soldiers died in recent years as a result of torture and one soldier reportedly took his own life after being subjected to beatings and humiliation.⁸

Only the most severe cases resulting in the death of a soldier or grave long-term health problems are prosecuted. The vast majority of cases which do not leave serious physical injuries and do not lead to serious damage to health are not investigated. This is due to the lack of effective complaints mechanisms and a culture in the military that discourages individuals from making complaints and appeals to law enforcement agencies and human rights organizations. Those who seek help are at risk of further reprisals.

Death penalty

A moratorium on death sentences and executions has been in force since 2004. At the 2016 UPR, several states recommended that Tajikistan ratify the Second Optional Protocol (OP2) to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty. In the 2017 National Plan for the Implementation of the UPR recommendations, the government included national-

⁸ In 2014 the Coalition started registering cases of torture and ill-treatment in the army -- those under the authority of the Ministry of Defence, the Border Guards of the SCNS as well as the National Guard. From 2014 to 2018 the Coalition recorded around two dozen cases, 19 of which resulted in death (and another two were driven to suicide). In 2019 it registered three cases involving the death of a soldier.

level proceedings to ratify this protocol. However, to date, the OP2 has not been ratified and the death penalty has not been abolished.

Since 2010, a State Working group, consisting of representatives of ministries, government agencies, the Ombudsperson and academics, has been studying the social and legal implications of the abolition of capital punishment. According to the Third periodic report of Tajikistan to the HRC, the Working Group drafted an Action Plan that includes a study of global practice and legislation in countries that have abolished the death penalty, an analysis of the effect on crime statistics before and after introducing the moratorium, and sociological research among various societal groups.

The issue of abolition of the death penalty has been regularly raised in various international fora, including the Human Rights Dialogue between Switzerland and Tajikistan. Tajikistan has stated that in order to fully abolish the death penalty, there is a need for a national referendum in order to introduce amendments to the Constitution. However, the issue was not raised during the most recent national referendum of 22 May 2016. The authorities argue that the population is not ready for the complete abolition of the death penalty. However, the results of a public opinion survey carried out in 2013 for Nota Bene found that of over 2000 respondents, 67 per cent wanted the death penalty abolished.⁹

Prior to 2004 when the moratorium was declared, all matters relating to the death penalty were considered state secrets. Secret executions following unfair trials and cases of confessions being obtained through torture were not uncommon. In addition, according to Article 221 of the CPC “the body of an executed prisoner is not given for burial, and the place of his burial is not disclosed.” Thus, the relatives of those who were executed before the moratorium still do not have a right to information about the places of burial.

Domestic violence

Domestic violence against women is an endemic and widespread issue in Tajikistan. The HRC reported in 2019 that as many as eight out of every 10 women in Tajikistan experienced domestic violence once in their lifetime.¹⁰

The exact extent of domestic violence in Tajikistan is, nevertheless, very difficult to assess due to the lack of comprehensive official statistics published on this topic, but also to narrowly defined social roles and societal stigma which often prevents women from speaking out about their abuse. According to the 2017 Tajikistan Demography and Health Study, only one in 10 women survivors of domestic violence seek help from the authorities.¹¹

Despite some progress in recent years women victims of domestic violence still face many challenges in accessing justice. The failure to classify domestic violence as a separate offence in the Criminal Code and of the authorities to ensure that those responsible are prosecuted has resulted in ongoing impunity for perpetrators.¹²

9 <http://notabene.tj/publication/ours/reports/>

10 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/TJK/CO/3&Lang=En
Domestic violence includes physical, psychological and/or economic abuse.

11 <https://dhsprogram.com/pubs/pdf/FR341/FR341.pdf>

12 See further information on <https://iphronline.org/wp-content/uploads/2017/03/ENG-Domestic-violence-in-Taj-March-2017.pdf>

In a welcome development, the current draft of the new Criminal Code contains an Article punishing domestic violence, including physical violence, isolation, intimidation, control and economic deprivation and neglect. However, the definition fails to cover all types of violence as recommended by the CAT (para. 48) and the Committee for the Elimination of Discrimination Against Women (CEDAW, para. 26), notably psychological violence, marital rape and sexual assault.

Punishments foreseen in the draft Criminal Code include fines, correctional labour or up to 40 days detention for an act incurring minor harm to another family member; or for up to three years in relation to several family members; if a perpetrator commits violence whilst they have a restraining order against them; an act towards a pregnant woman or minor or vulnerable person or in the presence of a minor or an act incurring average harm is punishable by up to three years' imprisonment; acts incurring grievous bodily harm, driving to suicide or acts of extreme cruelty are punishable by from two to five years imprisonment; acts entailing the death of two or more persons are punishable by from four to seven years' imprisonment. We strongly recommend that the punishments for domestic violence are commensurate to the crimes committed and that the punishments are equivalent to corresponding crimes committed outside the home.

Most victims of domestic violence do not have access to the shelters, psychosocial, legal counselling and other services they need, this is especially true in rural areas. There are only five women's shelters in Tajikistan, which receive no government support, and inadequate options for accommodation for victims of domestic violence. Crisis centres report that the already critical situation increased drastically during the COVID-19 pandemic.

LGBT

The human rights of lesbian, gay, bisexual and transgender (LGBT) people in Tajikistan are often egregiously abused. Police frequently intimidate, physically or sexually abuse and arbitrarily detain LGBT people. They use their knowledge of an individual's sexual orientation or gender identity to blackmail and extort money from them. Extortion and violence by the police as well as abuse by non-state actors take place with almost complete impunity.

During a press conference in January 2019, the former Ombudsman for Human Rights Zarif Alizoda stated that the Tajikistani authorities could not follow the recommendations of international organizations on LGBT rights because of the established "norms of morality and ethics of human relations", while stressing that "this fact does not mean that people of non-traditional orientation are persecuted in Tajikistan".¹³

Societal homophobia and transphobia make NGOs and civil society activists working with sexual minorities particularly vulnerable to intrusive government inspection, intimidation and other pressure (see the section on freedom of association for further information).

In 2016 the authorities set up a working group on the issue of youth joining groups of LGBT people began to single out members of sexual minorities and. In the following months, 367 alleged gay and lesbian persons were detained and registered. It is unclear whether authorities continue to register LGBT people.

13 <https://www.dialog.tj/news/ombudsmen-tadzhikistan-ne-mozhet-sledovat-rekomendatsiyam-po-pravam-lgbt-soobshchestva>

At the beginning of 2020, a documentary film entitled “Besharaf” (“disgrace” in Tajik) was published on government TV channels and other state-run media. Telling the story of a father and son, members of the banned Islamic Renaissance Party, the film portrays homosexuality as a disease and equates it with extremism. Authorities are reportedly instructing university teachers to show the film to their students. The video has sparked controversy and online debates around LGBT matters, which is a positive development, although most comments appear to be homophobic.

To our knowledge, in December 2020, law enforcement agencies detained two sex workers and four activists working in HIV organisations and forced them to take HIV tests at police stations. In many cases LGBT people refrain from turning to AIDS centres to ascertain their HIV status or to seek treatment by fear that their status will be revealed to family members and others and used against them by the authorities.

Persons with disabilities

Men, women and children with disabilities in Tajikistan are not only vulnerable to human rights violations such as discrimination — in particular access to education, the labour market, health care and social security -- but some are also subject to abuse in semi-closed institutions. During field research in June 2018, reliable sources told IPHR researchers about forced abortions, forced administration of drugs, the indiscriminate and inappropriate use of measures of restraint and denial of the right to family life in residential care institutions.

Tajikistan has not ratified the OPCAT which would establish a National Prevention Mechanism, despite recommendations by the CAT and the CEDAW.

Independent NGOs have hardly any access to facilities for persons with disabilities for the purpose of human rights monitoring, apart from as part of the Monitoring Group of the Ombudsperson’s Office which has a limited mandate and capacity and has not visited any facilities in the past two years.

Women and girls with disabilities often face multiple forms of discrimination based on gender, in addition to their disability, and often poverty.¹⁴

In a positive development, a National Action plan was adopted by government decree (No. 116) on 27 February 2021 for the period until 2024, aimed at preparing Tajikistan for the ratification and implementation of the Convention on the Rights of Persons with Disabilities.

Freedom of association

In recent years, the Tajikistani government has further tightened the space in which NGOs can operate and increased pressure on human rights defenders. Authorities have urged activists and groups to stop working on cases or speaking out on issues deemed “sensitive”. In 2021, the situation of civil society in the country, in particular that of NGOs working on human rights and other issues deemed “sensitive” by the authorities has deteriorated even further. These developments have resulted in a high sense of insecurity among affected individuals and groups.

14 See further information on <https://iphronline.org/wp-content/uploads/2018/12/Tj-disabilities-report-updated-compressed.pdf>

In accordance with the Law on Public Associations, public associations have to provide annual financial reports and details about types and sources of funding, beneficiaries and partners. A system for submission of information online is lacking, which creates difficulties for public associations in remote and inaccessible regions. The Law does not define penalties for failing to notify the Ministry or missing deadlines. In practice, however, the Ministry of Justice requires public associations to pay a fine for untimely notification.

Unwarranted inspections by authorities including the Ministry of Justice, the Tax Committee and the Labour Inspectorate continued during the period under review and resulted in warnings and sanctions in several cases. Often the authorities failed to advise on how to follow the rules, but appeared to look for small, technical errors in order to subsequently impose high fines or demand the closure of the NGO concerned.

On 1 February 2021 the Justice Minister stated during a press conference that the Ministry had registered 80 new NGOs in 2020; 111 organizations were denied registration because their documentation did not comply with the legislation; and 103 NGOs and 16 of their branch offices were liquidated. He added that some 2000 registered NGOs currently operate in Tajikistan.¹⁵

In the last few years, the authorities have considerably stepped-up harassment of organisations working with LGBT people or sex workers, accusing them of undermining traditional values and morals¹⁶. For example, in November 2017, Rohi Zindaghi (“Life Path”), a group working on LGBT rights, publicly announced that it was shutting down following a series of inspections. The association’s Chair stated that they were tired of all the inspections and that local authorities had told them repeatedly to stop working on the rights of sexual minorities.¹⁷

On 2 January 2020, the government adopted amendments to the Administrative Code that increased penalties for running the activities of public and religious associations that are unregistered, suspended, or prohibited by law. Participation in the activities of such associations is now punishable by a penalty of up to the equivalent of approximately 500 EUR instead of the previously applied penalty of approximately 35 EUR.¹⁸

15 https://asiaplustj.info/en/news/tajikistan/society/20210202/last-year-foreign-funding-for-tajik-public-associations-reportedly-amounted-to-90707-million-somonis?__cf_chl_jschl_tk__=8371cd367cca0b00c5effec487a029cb78b606cc-1616086223-0-ASelfApY8eBw06xkd4UkfHm8-kiucQzklLtQxLFECXnQOxhFNcail4_ut6IOG8Z2IXK0irCOA7HiiApgH5WzTDi6RHREJ638n2LO8DNqupC4VQooevMMbPG-8AGm5u_tNzh3E-0inRyW4tE4vLoeRE832Sf4civrxQrcoaf5ZlmlYjFsznp9tlhdGsuM1qcSW1W47H6AcZq7NV0ZeV9rrYBjDMdqeyq8RExIUrPAwD_eWkozeD6A8WVedh1GCV1U2EvTP67r_tuqn0MLuQjaptQRWnROmetZ2juc8bxL-a26hRrClifvJN0lovALHSXxm9n-nqFpvIVBERt4GvqPlmkii_8N1yY3WjH1cisZ4EASvkKkurfwDclh22JlZFFBDtCmoMT6ZlbMPKHRCzq4qcr7fZhfI5Ry9scLnWcPoC8m_Q1c9fbmCEiSq1PE0Q_3901U-A9q4s7DpUwJqKbDDQniakJQICZ7jAUVThGmb0hf0yscB3NpPZ2fmfApy6oKg

16 https://www.omct.org/files/2019/07/25409/tajikistan_hrd_report_eng.pdf

17 <https://vecherka.tj/archives/27284>

18 <https://www.icnl.org/resources/civic-freedom-monitor/tajikistan>

Recommendations

The organizations that jointly produced this submission urge the members of the Human Rights Council to call on Tajikistan to implement the following recommendations:

TORTURE AND ILL-TREATMENT

- The President and other senior government officials should publicly state that torture and ill-treatment are strictly prohibited in all contexts and that those responsible for such crimes will be brought to justice.
- Publish comprehensive statistics on complaints, investigations, prosecutions, convictions and means of redress relating to cases involving allegations of torture (Article 143-1) and ill-treatment.
- Bring to justice anyone found responsible for torture and ill-treatment and hand down sentences commensurate to the severity of the crimes committed.
- Access to legal safeguards in detention:
- Amend the CPC to ensure that remand hearings take place within 48 hours after apprehension for adults (in line with 2018 recommendations of the HRC and the Special Rapporteur on torture) and no longer than 24 hours for minors (in line with para. 83 of the CRC's General Comment No. 10).
- Ensure consistent implementation of legislation stipulating that lawyers must be given unhindered access to their clients at all stages of detention and in all detention facilities, including immediately after deprivation of liberty and solely based on presenting their lawyers' certificate.
- Ensure that, shortly after apprehension, all detainees undergo a medical examination by independent medical personnel in line with the standards of the Istanbul Protocol.

INDEPENDENT MONITORING OF DETENTION FACILITIES:

- Ratify OPCAT and establish an effective National Preventive Mechanism.
- In the meantime, grant unimpeded access to the ICRC and expert independent NGOs working to prevent torture in Tajikistan, to all places of detention, conscription commissions and military units.

EFFECTIVE INVESTIGATIONS:

- Set up and fund an independent mechanism endowed with sufficient authority and competence to conduct effective investigations into allegations of torture and ill-treatment.
- In the meantime, broaden the remit of existing dedicated units of prosecutors at the Prosecutor General's Office to ensure that they lead and carry out investigations into allegations of torture and all other forms of ill-treatment, irrespective of whether they are opened under Article 143-1 or other articles of the Criminal Code, and amend legislation accordingly.

COMPENSATION FOR MORAL DAMAGES TO VICTIMS OF TORTURE:

- Ensure that there are clear legislative provisions on torture victims' right to redress, including fair and adequate compensation and rehabilitation for damages caused by torture regardless of whether the perpetrators of such acts have been brought to justice.

HUMAN RIGHTS VIOLATIONS IN THE ARMED FORCES

- Adopt legislation providing for a civilian alternative to military service.
- Issue clear selection criteria for individuals applying to join military reserve units; specify the size of the fee they need to pay and publish comprehensive information about government income and spending through this fee.

DEATH PENALTY

- Abolish the death penalty and ratify the second Optional Protocol to the ICCPR.
- Amend legislation to enable relatives of individuals who were executed prior to the current moratorium to obtain information about the locations of burial.
- Improve conditions for prisoners serving life sentences and abolish excessive limitations on their access to family, lawyers and health care.

DOMESTIC VIOLENCE

- Compile comprehensive statistics on all forms of violence against women, disaggregated by type of violence, perpetrator, age and ethnicity of the victim and the outcome, and the number of complaints received, investigations and prosecutions conducted and the sentences imposed on perpetrators.
- Provide sufficient state funding to meet the need for shelters and social housing;
- Provide free legal, medical, psychological assistance to victims of gender-based violence, including in rural areas.
- Ensure that the police respond appropriately to complaints; that all allegations of violence are registered and promptly, impartially and effectively investigated; and that the perpetrators are brought to justice.
- Amend Article 53 of the draft Criminal Code to criminalize all forms of domestic violence including psychological violence, marital rape and sexual assault in order to facilitate the prosecution of perpetrators.
- Provide mandatory training to police, judges and other relevant officials on all forms of violence against women and ensure redress for victims (in line with CAT recommendation 2018).

LGBT

- Cease targeting LGBT people because of their sexual orientation or gender identity and erase government registers on members of sexual minorities.
- Devise and implement specific procedures to ensure that LGBT people who lodge complaints or provide witness reports about extortion or physical abuse by police or non-state actors are

protected against reprisals as soon as the authorities receive the complaint/witness report and that appropriate disciplinary or, where relevant, criminal measures are imposed against perpetrators for such actions.

- Ensure that all credible allegations of arbitrary detention, extortion, torture or ill-treatment of LGBT people by government agents or of their abuse by non-state actors are promptly, thoroughly, impartially and independently investigated, and that the perpetrators are brought to justice.

PERSONS WITH DISABILITIES

- Ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol.
- Ensure that persons with physical, sensory, intellectual and mental disabilities have access to education, work, health care and social security on an equal basis with others, and pay particular attention to women, who face multiple discrimination.

FREEDOM OF ASSOCIATION

- Bring the provisions of the Law on Public Associations and other national laws affecting NGOs into compliance with international human rights standards and ensure in particular that provisions concerning the oversight and inspections of NGOs, as well as the suspension and liquidation of NGOs are clear, unambiguous and fully consistent with the requirements of international law.
- Ensure that NGOs are not subject to undue restrictions on their activities and funding and that no NGO is closed down on arbitrary grounds.