

MEMORANDUM FOR THE NEWLY-ELECTED PRESIDENT OF TAJIKISTAN: RESPECT AND PROTECT HUMAN RIGHTS

On the occasion of the re-election of Emomali Rahmon as the President of Tajikistan, Amnesty International urges him to put human rights firmly on the government's agenda. The pervasive human rights violations in Tajikistan and the impunity for those who commit them must end. Laws, practices and customs which permit or encourage the perpetuation of human rights violations must change.

As he enters his fourth term, the President should lead the process of human rights reform in the country, placing particular emphasis on criminal justice reforms and the respect for the freedom of expression. This memorandum sets out the key human rights concerns in these areas and recommends concrete steps to address them.

KEY HUMAN RIGHTS CONCERNS IN TAJIKISTAN

Amnesty International has welcomed a number of positive developments in recent years. These steps include the introduction of the criminal offence of torture; the abolition in practice of the death penalty; the adoption of a Law on the Prevention of the Violence in the Family; and the adoption of a number of measures to protect participants in the criminal investigation process, including victims and witnesses, from intimidation and pressure.

Reforms to the criminal justice system have not succeeded in eliminating the widespread use of torture, however, or in ensuring that those who use it face justice. Allegations of harassment and threats against political opponents have multiplied in the course of the last year. The failure to address these long-standing structural human rights violations is holding Tajikistan back. They need to be addressed now.

1. IMPUNITY FOR TORTURE AND OTHER ILL-TREATMENT

Despite various recent measures aimed at combating torture, torture and ill-treatment remains widespread and impunity for abuses the norm. NGOs and lawyers in Tajikistan registered over 96 complaints about torture and other ill-treatment between 2010 and 2012, but very few of these allegations of torture or other ill-treatment were impartially and effectively investigated. In most of the cases where complaints of torture and other ill-treatment were investigated, those responsible have been dealt with only under disciplinary proceedings. Most of the criminal prosecutions that do take place are for "exceeding official authority" rather than under the new article of the Criminal Code that prohibits torture. Amnesty International is aware of only three cases where criminal prosecutions under this new article have been initiated.

Criminal prosecutions of any kind against law enforcement officials remain rare and often are terminated or suspended before they are concluded. In several recent cases, law enforcement officials who were convicted for "exceeding official authority" were released early under the 2011 Law "On Amnesties".

The lack of impartiality of investigations and prosecutions is a persistent problem, and often close structural and personal links between prosecutors and police undermine the impartiality of investigations. In many reported cases where credible allegations of the use of torture and other ill-treatment exist, Prosecutors' Offices effectively ignore complaints from victims of human rights violations or refuse to launch criminal investigations after some "initial examinations".

While numerous individuals have been convicted on the basis of confessions obtained under torture or other ill-treatment, and are serving prison sentences passed down in unfair trials, proceedings against the alleged

perpetrators often appear to be perfunctory, and perpetuate impunity for these violations.

2. OBSTACLES TO CRIMINAL DEFENCE LAWYERS CARRYING OUT THEIR PROFESSIONAL DUTIES

Amnesty International is concerned that the draft law “Ob advokature” (On Lawyers), currently under review by a Working Group set up by the Ministry of Justice, contains provisions which threaten to undermine the independence of lawyers by putting the Ministry of Justice in charge of the Qualification Commission which issues and withdraws lawyers’ licences. This provision and another provision in the draft law which requires practising lawyers to re-qualify under the terms of the new law risks rendering lawyers more vulnerable to administrative controls by the authorities and facilitating the revoking of licences for political or other unjust reasons.

Amnesty International is concerned that in Tajikistan detainees’ access to a lawyer is routinely restricted, especially during the initial period of detention and investigation when detainees are at a particularly high risk of torture and other ill-treatment, as well as other forms of unlawful pressure. By law, detainees are entitled to a lawyer as soon as they are detained, but in practice they are often denied access to their lawyers for days, sometimes first seeing them at remand hearings. Moreover, lawyers in Tajikistan continue to report that they are sometimes required to obtain prior permission (in writing) from certain police inspectors in order to see their clients due to the Ministry of Internal Affairs (MIA) undisclosed internal directives regulating communication between defence lawyers and detainees. These directives contradict both national and international laws which provide that detainees must have prompt access to a lawyer of their choice. Such restrictions on access to lawyers are particularly prevalent in detention facilities run by the State Committee for National Security and specialized MIA departments. Detainees held in these places are at particular risk of human rights violations, and of being compelled to make statements incriminating themselves and others.

3. REPRISALS AGAINST VICTIMS AND WITNESSES OF HUMAN RIGHTS VIOLATIONS

Despite the welcome introduction of a three-year witness protection programme in November 2012, people who speak out about torture and other ill-treatment continue to face reprisals from law enforcement officials.

Since July 2013, there have been at least four cases where detainees, including one who was a child, complained to their lawyers or relatives or the authorities about torture and other ill-treatment only to be subjected to further ill-treatment by law enforcement officials in an apparent attempt to silence them. As a result, they decided against seeking redress. These instances of torture or other ill-treatment took place in detention facilities under the jurisdiction of Ministry of Internal Affairs, the State Committee of National Security and Ministry of Justice.

These four cases are illustrative of the overall pattern that Amnesty International has documented over the past three years in Tajikistan where torture and other ill-treatment is used not only to extract “confessions” or as a means of extortion, but also to silence those who seek redress.

The lack of impartial, thorough and effective investigations into allegations of torture and other ill-treatment and the ineffectiveness of the existing witness protection programme, all result in the lack of redress for victims of torture and other ill-treatment, and a failure to bring the perpetrators to justice.

4. TORTURE AND ILL-TREATMENT IN PRISONS

In recent years, increasing numbers of people in prisons have attempted to challenge impunity for gross violations of their human rights by prison officials. Such attempts appear to have led to more reprisals against them. The correction facility 3/3 in Khujand, in particular, has become notorious for frequent allegations of intimidation of inmates by the prison staff, including beatings and arbitrary solitary confinement, lack of medical treatment for serious injuries, and fabrication of new charges in order to thus prolong incarceration of complainants. Many of these allegations specifically concern men who had raised allegations of torture and other ill-treatment used against Hamza Ikromzoda prior to his death in September 2012, in their previous place of imprisonment in Dushanbe.

5. THE FAILURE TO INVESTIGATE CREDIBLE REPORTS OF CIVILIANS' DEATHS DURING THE JULY 2012 EVENTS IN KHOROG, GORNO-BADAKHSHAN AUTONOMOUS REGION

In July 2012, clashes between government forces and armed groups took place in Khorog, Gorno-Badakhshan Autonomous Region (GBAO). In some of the most intense fighting since the end of the 1992-1997 civil war in Tajikistan, a government military operation was launched against forces loyal to the deputy commander of the Ishkashim border unit, former civil war field commander and opposition leader Tolib Ayombekov. Government security officials claim that the military operation targeted "criminals associated with militant groups in Afghanistan". Subsequent monitoring carried out by "Civic Solidarity" the Helsinki Foundation on Human Rights with a group of Tajikistani NGOs in February and March 2013, looking into the events of July 2012, highlighted the lack of necessary steps taken to protect the general population during the military operations, which resulted in injuries to and deaths of members of the general population. The NGOs carrying out this monitoring estimated that some 20 members of the general population were killed and some 40 wounded during the events.

To date, there has been no information given on the progress of investigations undertaken by the General Prosecutor's Office into these deaths and injuries. Some of the relatives of those killed report that they have not been issued with death certificates for the victims. Nor has complete information been provided about the number of military deaths during the operation.

6. DWINDLING SPACE FOR POLITICAL ACTIVISM

Amnesty International is concerned about the continuing clampdown on the right to freedom of expression, association and assembly, of political activists. Several individuals active in the political opposition to the current government face criminal charges apparently brought in connection with their legitimate political activities.

In the last two years a number of prominent entrepreneurs and former government officials and community leaders have openly expressed their dissatisfaction with the government's policies, and called for fair elections and a more open democratic dialogue. Some of them attempted to set up political groups and movements stating their intention to compete in the parliamentary elections in 2015. However, a pattern has emerged of cases where political activists perceived to be threatening to the current government have been met with reprisals. For example, the authorities have sought the extradition of Abdumalik Abdullozhonov, the former Prime Minister, and Umarali Kuvvatov, a former businessman, residing abroad who had become critical of the government in recent years; the bringing of criminal charges which some allege to be politically motivated against of Zayd Saidov and his subsequent detention and reported reprisals against his relatives and supporters; the alleged enforced disappearance in March 2013 of Salim Shamsiddinov which has not been effectively investigated; and assaults by unidentified men on and harassment of members of the Islamic Renaissance Party (IRP) which, likewise, which have not been effectively investigated.

According to international observers, reprisals by the authorities against opposition activists, or the fear of such reprisals, severely restricted the participation of opposition activists in the presidential elections.

Amnesty International is also concerned about the increasing pressure on the IRP, the only opposition party that holds seats in the Parliament and which is likely to have candidates standing in the 2015 Parliamentary Elections. Its members have reported being assaulted and harassed, and that their relatives have been threatened and their supporters intimidated.

There has been no investigation into the April 2013 assault on the IRP Deputy Chairman Mahmadi Haytov in Dushanbe. An assault on another high-ranking member of the party in Shugnon district in GBAO was reported in August 2013. IRP reported to local media that its members have been often prevented from holding public meetings, pressured to leave the party, and threatened with losing their jobs or property or other assets or even that reprisals will be taken against their relatives. As a result, some people have left the party in recent months. In 2013, the IRP reported a smear campaign by the government.

Amnesty International's recommendations to the new President:

1. Sign and ratify the Optional Protocol to the Convention against Torture and establish an independent monitoring system of detention facilities, as envisaged by the Protocol. In the meantime, allow independent monitors, including representatives of civil society, to have unimpeded access to all detention facilities, including, as a priority, the correction facility 3/3 in Khujand City.
2. Take steps to tackle impunity including by establishing an adequately resourced, effective, independent agency to investigate all allegations of human rights violations committed by officers of law enforcement agencies and the security services.
3. Ensure that detainees have immediate access to a lawyer of their choice, with whom they can consult confidentially and in private. The draft law "Ob advokature" should be amended so as to remove the direct control of the executive over the qualification and registration of lawyers.
4. Put an end to the harassment of and reprisals against victims or witnesses who speak out about torture and ill-treatment, ensuring their protection in practice and the effective investigation of all allegations of harassment.
5. Order an impartial and thorough investigation into the reported deaths and injuries of members of the general population in the context of the military operation and clashes with armed groups in GBAO in July 2012, ensure that those responsible are held to account, and provide full and adequate reparations to victims and their families.
6. Ensure that political activists and their supporters are able to exercise their rights to freedom of expression, association and assembly, including in the run up to the 2015 parliamentary elections, without fear of harassment, intimidation or other reprisals.