

BRIEFING PAPER

Workshop on the Effective Prevention of Torture

Dushanbe, Tajikistan,

1 July 2024

I. Introduction

On 1 July 2024, the International Commission of Jurists (ICJ), in collaboration with the Regional Office for Central Asia (ROCA) of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Civil Society Coalition against Torture and Impunity in Tajikistan, convened a workshop in Dushanbe to address critical issues related to the prevention of torture and cruel, inhuman, or degrading treatment (CIDT).

The event brought together legal practitioners, human rights lawyers, representatives of national institutions, and international experts to discuss strategies for strengthening the legal and institutional framework for combatting torture in Tajikistan. The workshop emphasized the necessity of aligning national laws with international human rights standards and ensuring the effective implementation of anti-torture safeguards.

Discussions began with an overview of international legal norms governing the prohibition of torture, emphasizing Tajikistan's obligations under the United Nations Convention against Torture (UNCAT) and the International Covenant on Civil and Political Rights (ICCPR). While national legislation has been amended to criminalize torture explicitly, participants stressed that enforcement remains inconsistent, with legal loopholes and procedural shortcomings undermining accountability. The session also explored the broader implications of torture within the justice system, particularly how impunity for perpetrators fosters systemic abuses and erodes public trust.

A detailed analysis of recent cases illustrated patterns of abuse, including forced confessions, incommunicado detention, and the continued admission of evidence obtained under duress. Several participants pointed out that while reforms had been introduced, including judicial directives aimed at curbing the use of forced confessions, implementation remains weak due to a lack of independent investigative mechanisms and reluctance within the judiciary to challenge law enforcement agencies.

II. Key Discussion Points

Participants underscored the challenges in bridging the gap between legal reforms and their practical implementation. While Tajikistan has formally recognized the prohibition of torture, the lack of independent investigative bodies and procedural safeguards continues to hinder progress. Judicial and prosecutorial reluctance to exclude evidence obtained under torture, coupled with an absence of prompt and impartial investigations, allows these violations to persist.

The discussion revealed that law enforcement agencies retain significant discretion over detention and interrogation procedures, often obstructing access to legal counsel. Detainees, particularly in politically sensitive cases, are frequently denied contact with family members and independent lawyers for prolonged periods, facilitating conditions in which coercion is more likely to occur. Furthermore, forensic medical assessments of detainees alleging mistreatment remain infrequent, with state-appointed experts reluctant to contradict official narratives.

Access to justice for victims of torture remains a significant concern. Despite legal provisions allowing individuals to lodge complaints, procedural obstacles and fear of reprisals deter many from doing so. Lawyers representing torture victims have reported intimidation, including threats, surveillance, and even criminal charges intended to dissuade them from pursuing cases against state officials. In the few instances where cases have proceeded to court, convictions remain rare, and sentences imposed on perpetrators tend to be lenient, failing to provide adequate deterrence.

Further discussions focused on the lack of reparations for victims, as existing compensation mechanisms remain largely ineffective. Many survivors struggle to access medical and psychological support, with no structured rehabilitation programs available to assist in their recovery. This absence of comprehensive victim support exacerbates the long-term consequences of torture and contributes to a climate of impunity.

Ensuring independent, prompt, and thorough investigations into allegations of torture was a central theme of the discussions. While national authorities have taken steps to address the issue, participants noted that investigations are often conducted by the same agencies accused of committing abuses, raising concerns about impartiality and effectiveness.

Several proposals were put forward to address these shortcomings. Participants emphasized the importance of establishing an independent oversight body with the authority to investigate torture allegations, separate from law enforcement agencies. They also stressed the need for judicial oversight, ensuring that courts actively scrutinize confessions obtained through coercion and reject them outright when evidence suggests they were extracted under duress.

The importance of public transparency and access to information was also highlighted. Participants called for greater openness in how complaints are handled, with clear reporting mechanisms that allow victims and their representatives to track progress. The involvement of civil society and international human rights mechanisms was seen as crucial in ensuring accountability and pressuring authorities to take meaningful action.

III. Recommendations

Enhancing legal and procedural safeguards. To strengthen the legal framework against torture, participants recommended amending national legislation to ensure full compliance with international anti-torture norms. This includes reinforcing judicial safeguards that prevent the use of coerced confessions and introducing more stringent accountability measures for officials implicated in acts of torture. The importance of mandating forensic medical examinations in all cases of detention was also underscored as a means of preventing ill-treatment.

Training programs for law enforcement officials, prosecutors, and judges were seen as essential to ensure they understand their obligations under international human rights law. Participants also called for reforms to improve detainees' access to legal representation from the moment of arrest, ensuring their rights are upheld throughout the judicial process.

Establishing independent investigative mechanisms. There was broad consensus on the need for an independent body tasked exclusively with investigating torture complaints. This entity should be insulated from political and law enforcement influence, have the authority to initiate prosecutions, and provide regular public reports on its findings. Participants stressed that the credibility of such an institution depends on its independence and ability to hold perpetrators accountable without interference.

International best practices, including models from jurisdictions where independent oversight mechanisms have significantly reduced instances of torture, were discussed as potential blueprints for Tajikistan's reforms. Efforts to enhance cooperation between national authorities and international human rights bodies were also encouraged to ensure greater oversight and compliance with global anti-torture standards.

Improving access to justice and remedies for victims. Addressing the barriers to justice faced by torture survivors was recognized as an urgent priority. Participants emphasized the necessity of expanding victim protection measures, ensuring that those who come forward with complaints are shielded from retaliation. Additionally, the need for comprehensive rehabilitation services, including psychological and medical support, was identified as a key component in addressing the long-term impact of torture.

Efforts to accelerate legal proceedings and impose meaningful sentences on perpetrators were also seen as vital in restoring public confidence in the justice system. A more systematic approach to documenting and reporting torture cases, including the development of a national database of reported incidents and case outcomes, was suggested as a means of improving transparency and tracking progress.

IV. Conclusion

The workshop provided an opportunity for legal practitioners, human rights defenders, and policymakers to engage in substantive discussions on the systemic challenges hindering the effective prevention of torture in Tajikistan. Participants reaffirmed that while legislative progress

has been made, practical implementation remains weak, necessitating urgent and far-reaching institutional reforms.

Sustained measures to comply with international human rights obligations are needed. This includes strengthening accountability mechanisms, reinforcing judicial safeguards, and ensuring adequate victim support services. Collaboration between national institutions, civil society, and international human rights mechanisms remains essential to achieving meaningful progress in eradicating torture and ill-treatment.