

BRIEFING PAPER

Roundtable on the Role of an Independent Court in Ensuring a Fair Trial

Dushanbe, Tajikistan,

14 October 2024

I. Introduction

On 14 October 2024, the International Commission of Jurists (ICJ), in collaboration with the Supreme Court of Tajikistan, the Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for Central Asia (ROCA), and the Civil Society Coalition against Torture and Impunity in Tajikistan, convened a roundtable discussion titled "The Role of an Independent Court in Ensuring a Fair Trial."

The roundtable brought together high-ranking judges, legal professionals, international experts, civil society representatives, and human rights advocates to address issues concerning judicial independence, fair trial guarantees, and the prohibition of torture and ill-treatment in criminal proceedings. Participants discussed systemic challenges within the judicial system, barriers to ensuring fair trial rights, and the need for institutional reforms to uphold the rule of law in Tajikistan.

During the discussions concerns were expressed over the lack of judicial independence and political interference in court decisions, which significantly undermine the right to a fair trial. Experts also examined the continuing use of force to extract self-incriminating statements and the frequent admission of evidence obtained under torture, despite Tajikistan's formal commitments under the UN Convention against Torture (UNCAT) and the national legislation prohibiting it. The importance of eliminating these practices, ensuring a meaningful right to legal representation, and strengthening oversight mechanisms were central themes of the event.

II. Key Discussion Points

Judicial independence remains a fundamental challenge in Tajikistan. Participants examined how political influence over judicial appointments, promotions, and disciplinary actions compromises impartiality. The roundtable emphasized the need for an independent judiciary that can make decisions free from external pressure, ensuring that fair trial rights are protected and upheld.

Participants highlighted that the effectiveness of the judiciary in safeguarding fair trials is linked to broader structural issues, including the concentration of power in executive bodies and the absence of institutional safeguards against undue influence. The discussion also referenced international legal standards, such as Article 14 of the International Covenant on Civil and Political Rights (ICCPR), and the UN Basic Principles on the Independence of the Judiciary, which provide a clear framework for strengthening judicial autonomy.

key concern raised was the widespread use of torture and ill-treatment in criminal investigations. Participants emphasized that forced confessions and other evidence obtained through coercion continue to be admitted in court, contradicting Tajikistan's obligations under Article 15 of UNCAT. The lack of effective investigation into torture allegations and the culture of impunity among law enforcement officers exacerbate the problem.

There was broad agreement that forensic medical assessments should be strengthened to document torture claims, and that courts should take a proactive role in excluding tainted evidence. Ensuring prompt and independent investigations into allegations of mistreatment was deemed essential to combating torture and improving public confidence in the judicial system.

The principle of equality of arms was another major focus. Defence rights are often severely limited, particularly at the early stages of detention, where individuals may be denied access to legal counsel. Participants discussed how prosecutors frequently enjoy greater procedural advantages, with limited checks on their power.

The roundtable underscored the need for concrete measures to ensure that defence lawyers are granted access to case materials, witnesses, and forensic evidence on an equal footing with the prosecution. Additionally, participants noted that pre-trial detention is frequently imposed without

thorough judicial review, often based solely on the nature of the charges rather than a genuine assessment of risk.

III. Recommendations

Strengthening judicial independence. To promote an independent judiciary, participants recommended the establishment of clear institutional safeguards protecting judges from political and executive interference. The selection, appointment, and tenure of judges should be transparent, with procedures that ensure impartiality. Judicial training programs should include international fair trial standards to reinforce their application in domestic proceedings.

Eliminating torture and coerced evidence. Participants emphasized the urgent need for judicial enforcement of the exclusionary rule, ensuring that evidence obtained under torture is inadmissible. Mechanisms for investigating torture allegations must be strengthened, and independent forensic medical assessments should be available to detainees. Courts must take a more proactive role in ensuring accountability for human rights violations within the criminal justice system.

Ensuring fair trial guarantees. Legal representation must be accessible to all accused persons from the moment of detention. The principle of equality of arms must be upheld by ensuring that defence lawyers have the same procedural rights as prosecutors. The judiciary must also play an active role in reviewing pre-trial detention decisions, ensuring that detention is only used when strictly necessary and not as a routine measure.

IV. Conclusion

The roundtable served as an important venue for discussions on the obstacles facing Tajikistan's judiciary among civil society members, State representatives and international stakeholders. Participants engaged in detailed examinations of systemic shortcomings and formulated strategies to promote an independent and impartial judicial system. The discussions reinforced the urgent need to strengthen fair trial guarantees, enhance protections against torture, and establish more effective judicial oversight mechanisms.

Meaningful judicial reforms must be prioritized to foster greater accountability, transparency, and adherence to international human rights obligations. Moving forward, sustained efforts from national authorities, legal professionals, and civil society will be essential in ensuring that reforms translate into concrete improvements in the administration of justice. Only through coordinated action can Tajikistan build a legal system that upholds human rights of all individuals and guarantees access to fair and impartial judicial proceedings.