

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Tajikistan: A coalition of non-governmental organizations is calling on the government to end torture and fulfil its international obligations

On 26 June, the International Day in Support of Victims of Torture, a coalition of Tajikistani and international human rights organizations is urging the authorities to make the eradication of torture a top priority on the government's agenda and to bring justice to victims of torture across the country.

In December 1997, the United Nations (UN) General Assembly proclaimed 26 June the International Day in Support of Victims of Torture, a day to speak out against the crime of torture, and to honour and support victims and survivors around the world. The date was chosen to commemorate the day the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) entered into force in 1987.

In November 2006, when the UN Committee against Torture reviewed Tajikistan's compliance with its Convention obligations, it expressed concern at "numerous allegations concerning the widespread routine use of torture and ill-treatment by law enforcement and investigative personnel". The authorities have since taken some measures in the right direction. For example, the adoption of the new Criminal Procedure Code that came into force in April 2010 strengthened some safeguards against torture. Government officials have on several occasions reiterated their commitment to human rights. For example, in his speech in Parliament on 20 April 2011, President Emomali Rahmon stressed the government's commitment to "protect human rights, the rule of law and order." However, much remains to be done as evidenced by the fact that in 2010 the European Court of Human Rights ruled in several cases of Tajik citizens that they must not be extradited to Tajikistan citing the "widespread" nature of torture in the country. In 2011 the Court issued emergency measures to prevent the extradition of another man to Tajikistan.

Case examples

When **Abdumuqit Vohidov** and **Ruhniddin Sharopov** returned to Tajikistan from US detention at Guantanamo Bay in March 2007, they were arrested and reportedly held without access to a lawyer until their trial in August that year. Their families say they were notified only at the end of April 2007. Reportedly, both men were tortured and beaten by law enforcement officers in Tajikistan to extract confessions and incriminating evidence. Abdumuqit Vohidov's fingers were allegedly either electrocuted or burnt with a flame. On 17 August the Supreme Court of Tajikistan sentenced both men to 17 years' imprisonment for illegal border crossing into Afghanistan in 2001 and fighting for the Islamic Movement of Uzbekistan (IMU) as mercenaries. Their lawyer stated in the appeal document that the men were not aware that they were being hired by the IMU and that no evidence was presented in court to prove that they actually participated in combat. The appeal was turned down at the end of October 2007 and no independent and impartial investigation is known to have been opened into the allegations of torture or ill-treatment.

Ilhom Ismonov was reportedly tortured by police at the Department for the Fight against Organized Crime (UBOP) of the Ministry of Internal Affairs in Khujand in Soghd region, including by having electric shocks and hot and cold water poured over his body, in November 2010. His lawyer was able to see him for the first time at the remand hearing on 12 November, nine days after he had been arrested. Although the young man told the judge that he was tortured and offered to show him evidence of torture on his body, the judge did not address the allegations and told his lawyer to take them up with the police investigator. In letters to Ilhom Ismonov's wife and lawyer the Prosecutor of Soghd Region said no torture had taken place but did not explain how he had reached that conclusion. The

organizations publishing this statement are concerned that evidence extracted under torture may be used in his upcoming trial, where he will be accused of IMU membership and tried alongside with 52 other alleged IMU members. The organizations are calling on the authorities to ensure that the trial will be open to the public and independent observers.¹

Safarali Sangov died on 5 March 2011, four days after his arrest on 1 March by officers of Sino District police in Dushanbe. During the arrest police reportedly beat him and other family members, including children and a woman who was four months' pregnant. To date no investigation has been carried out into the alleged beatings of his family members. Following a public outcry and allegations that Safarali Sangov may have died as a result of torture at Sino District police station, in March three policemen were charged with "negligence", one of them additionally with "exceeding official authority". However, the prosecution subsequently dropped the latter charge stating that testimonies of Safarali Sangov's relatives were not acceptable as evidence. According to the prosecution, Safarali Sangov fell off the stairs at the police station and then – after being taken to an office – threw himself against a safe and a wall. Reportedly, no charge was brought against another policeman on the grounds that he was hospitalized for "severe antritis" (inflammation of the sinuses) and allegedly unable to participate in the investigation for health reasons. Safarali Sangov's lawyer believes that the investigation into Safarali Sangov's death by the prosecution was biased. For example, in April the lawyer petitioned the Prosecutor's Office of Dushanbe to question in each other's presence the accused and the witnesses, whose testimonies had been contradictory. However, the Prosecutor's Officer never responded to the petition and no questioning was carried out. The Prosecutor's Office also failed to give equal access to case materials to the prosecution and the defense. For example, an employee of the prosecutor's office was reportedly given access to the full report of the forensic medical examination on 25 March while the lawyer was given such permission only on 17 May. The trial against the three policemen opened on 2 June.²

In Tajikistan police have in many cases been accused of torturing or beating detainees to extract money, confessions or other information incriminating the victim or others. This abuse has mostly taken place in the early stages of detention; in many cases victims are initially detained without contact with the outside world. Lawyers and human rights defenders in Tajikistan who have worked on cases of detainees held in facilities run by the State Committee for National Security reported that detainees in these facilities were at particular risk of torture or other ill-treatment. Lawyers and human rights activists also reported about torture and ill-treatment in pre-trial detention facilities under the jurisdiction of the Ministry of Justice, as well as in Ministry facilities for prisoners serving sentences in the penitentiary system.

Torture practices reported in Tajikistan include the use of electric shocks; attaching plastic bottles filled with water or sand to the detainee's genitals; rape; and burning with cigarettes. Beating with batons, truncheons and sticks, kicking and punching are also believed to be common.

The organizations signing this statement are concerned that safeguards against torture enshrined in domestic law are not always adhered to. For example, while the new Criminal Procedure Code stipulates that detainees are entitled to a lawyer from the moment of their arrest, in practice lawyers are at the mercy of investigators who can deny them access for many days. During this period of incommunicado detention, the risk of torture or other ill-treatment is particularly high. The new Criminal Procedure Code also introduced remand hearings within 72 hours of a suspect's arrest. However, they often take place with a delay and judges in many cases ignore torture allegations and the injuries presented to them in the court room. Usually they rely on the version of events given by the people accused of the torture.

¹ For further information about the case, refer to Amnesty International's Urgent Actions (UA: 238/10), AI Index: EUR 60/002/2010, 15 November 2010 and EUR 60/003/2010, 25 November 2010, November 2010.

² For further information about the case, refer to the 17 March 2011 joint public statement by Amnesty International and the Bureau of Human Rights and Rule of Law, entitled *Tajikistan: Detained, then dead. Authorities must promptly conduct an effective investigation into Safarali Sangov's death* (AI Index: EUR 60/002/2011).

There are no routine medical examinations when detainees are admitted to police stations and temporary detention facilities. Upon transfer to pre-trial detention facilities under the jurisdiction of the Ministry of Justice they undergo a medical examination. However, when medical personnel suspect that a detainee underwent torture or other ill-treatment they usually return them to the temporary detention facility until the signs of injury have faded.

Victims rarely lodge complaints when they are abused by law enforcement officers for fear of repercussions, and impunity for abusive officers is the norm. Often relatives and lawyers are reluctant to file complaints so as not to worsen the situation for the detainee.

Prosecutor's offices are tasked with investigating allegations of torture. Sometimes close personal and structural links between prosecutor's offices and police undermine the impartiality of prosecutors. The authorities have not published comprehensive statistics on prosecutions of law enforcement officers relating specifically to torture or other ill-treatment rather than broader charges such as "abuse of power" or "exceeding official authority".

Judges recurrently base verdicts on evidence allegedly extracted under duress.

The definition of torture in domestic law is not fully in line with the definition contained in the Convention against Torture.

Tajikistan has not given the International Committee of the Red Cross access to detention facilities to carry out monitoring since 2004. It has not ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which provides for a system of regular visits to places of detention carried out by independent international and national bodies.

The organizations signing this statement are calling on the authorities of Tajikistan to implement the following recommendations as a matter of priority:

- Ensure that detainees in all cases have the right to a lawyer of choice and to unlimited and confidential access starting immediately after the arrest.
- Ensure that judges ruling on authorizing pre-trial detention also inquire into the treatment of detainees while in custody, in line with Principle 37 of the Body of Principles on Detention or Imprisonment. If the inquiry, or the detainee's own statement, gives reason to believe that torture or ill-treatment was committed, the judge should issue instructions that an effective investigation be carried out.
- Ensure that suspects are examined by an independent doctor immediately after their detention and when they are admitted to a temporary detention facility.
- Promptly open thorough, independent and impartial investigations into all allegations of torture or other ill-treatment and bring those responsible to justice.
- Legislate to the effect that no statement or confession made by a person deprived of liberty, other than one made in the presence of a judge or a lawyer, should have a probative value in court, except as evidence against those who are accused of having obtained the confession by unlawful means.
- Include a definition of torture in domestic law that is in full conformity with the definition contained in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
- Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
- Grant access to detention facilities to the International Committee of the Red Cross.

Organizations signing this statement:

Amnesty International

Bureau of Human Rights and Rule of Law, Tajikistan

Centre for Children's Rights, Tajikistan

Collegium of Advocates of Soghd region, Tajikistan

Citizens' Rights Centre, Tajikistan

Collegium of Advocates of the Republic "Sipar", Tajikistan

Equal Opportunity, Tajikistan

International Federation for Human Rights (FIDH)

League of Women Lawyers of the Republic of Tajikistan, Tajikistan

Penal Reform International (PRI)

Public Charitable Association "Avesto", Tajikistan

World Organisation Against Torture (OMCT)

Young Lawyers Association "Amparo", Tajikistan

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