



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.: General
12 March 2013
English
Original: French

Committee against Torture
Forty-ninth session

Summary record of the first part (public)* of the 1108th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 7 November 2012, at 10 a.m.

Chairperson: Mr. Grossman

Contents

Consideration of reports submitted by States parties under article 19 of the Convention
(*continued*)

Second periodic report of Tajikistan

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1108/Add.1.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Second periodic report of Tajikistan (CAT/C/TJK/2; CAT/C/TJK/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Tajikistan took places at the Committee table.*
2. **Mr. Salimzoda** (Tajikistan) said that his country had gone through a civil war after independence and that the situation had not stabilized until 2000. Tajikistan had since adopted a democratic regime whose Constitution, laws, institutions and mechanisms were founded on respect for human rights. Citizens' rights were protected by the human rights commissioner and the Procurator-General's Office, a central and independent body that reported to the President of the Republic and parliament and ensured compliance with procedures. The Constitution recognized the primacy of international instruments and expressly prohibited torture. The Code of Civil Procedure, the Code of Administrative Procedure and the Criminal Code had been revised and the jurisdiction of the Constitutional Court had been expanded.
3. New legislation to eradicate torture and ill-treatment during detention and protect witnesses and freedom of the press had been strengthened by the removal of the section of the Criminal Code criminalizing defamation.
4. The latest recommendations of the universal periodic review had been accepted, including those relating to torture prevention, and incorporated in an implementation plan for the period 2012–2016. Following his visit to Tajikistan in May 2012, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had expressed satisfaction at the efforts made by the authorities to improve prison conditions and to strengthen the legislative framework.
5. With regard to the recommendations made by the Committee against Torture, section 143 of the Criminal Code contained a definition of torture in line with the Convention and punished acts of attempting to torture, complicity, ordering or participating in it. The President of the Republic had repeatedly publicly condemned the use of torture. A working group composed of representatives from the Office of the President, Procurator-General's Office and other bodies was responsible for organizing seminars on the prevention of torture for members of the judiciary nationwide. A large number of meetings and seminars had been held on respecting human rights during investigations and in places of detention. The Code of Criminal Procedure contained special provisions regarding detention and custody, which took into account the Committee's recommendations. Furthermore, all custody cells in Tajikistan were being renovated.
6. Pretrial detention was now subject to judicial review, independent of the Procurator-General's Office, and legal remedies were available in the event of failure to comply with rules and time limits. According to the Supreme Court, a detainee could be released in the event of non-compliance with administrative deadlines or maximum periods of detention.
7. The Justice Council of the Republic of Tajikistan was making efforts to improve the judicial system, focusing particularly on its independence, resources, staff recruitment and training. As part of the ongoing judicial reform, the retirement age of judges had been raised to 65 years and their appointment for life was under review. Their salaries had also been increased. The appointment of judges by the President was a common practice, which did not affect the independence of the judiciary.
8. **Mr. Tugushi** (Country Rapporteur) welcomed measures adopted by the State party in recent years to amend the legal framework for combating torture, including the adoption

of the new Code of Criminal Procedure and the new section 143 of the Criminal Code, which criminalized torture and brought its definition more in line with the provisions of the Convention. He noted, however, that Tajik legislation still had provisions that propagated the systemic nationwide practice of torture and ill-treatment, for example the prison sentences under the Criminal Code for crimes of torture, which were not commensurate with the seriousness of those offences, and the Amnesty Act, which was applied in many torture cases.

9. The revised Code of Criminal Procedure stipulated that detainees were not entitled to procedural safeguards until they had been registered. It would therefore be useful if the delegation could clarify exactly when the deprivation of liberty of a person arrested by the police began, knowing that the fundamental rights of persons deprived of their liberty must be guaranteed from the moment of their detention.

10. The Code of Criminal Procedure also provided that, when a person was arrested, his or her family must be informed within 12 hours and the authorities subsequently had 10 days to press charges. Could the delegation clarify whether that period included the time lapse between the arrest and bringing the suspect to the police station and whether there were plans to reduce the 12-hour period stipulated for informing families? He also asked the delegation to comment on information received by the Committee that many people apprehended by the police underwent an initial interview before the detention record was drawn up. That interview could last for several days, during which time the fundamental guarantees that should be accorded to the detainee, including access to a lawyer, were not provided.

11. He asked whether there were any instances where the courts had directly invoked the provisions of the Convention in cases of torture or ill-treatment. He also sought clarification as to whether it was true, as mentioned in a number of reports, that people arrested by the police were often kept in police custody for long periods before being transferred to detention centres. Additional information on the statute of limitations provided for under the criminal legislation of Tajikistan would also be welcome.

12. He also wished to know whether a court had ever rejected evidence because it had been obtained through coercion or torture. In that regard, he asked the delegation to comment on reports that the courts would not generally act on statements from suspects who claimed to have been tortured while in custody, and that confessions obtained through torture would continue to be used as evidence.

13. It would be interesting to know whether the human rights commissioner, had the right to visit all places of deprivation of liberty, produced reports giving his opinion on the situation regarding the treatment of prisoners and prison conditions, and whether he only visited detention centres and prisons, or could also visit police premises and places under the authority of the Ministry of State Security.

14. Could the delegation indicate whether Tajikistan was considering acceding to the Optional Protocol to the Convention against Torture? He invited it to comment on reports that minors were placed in solitary confinement and that their interrogation took place without a legal representative or lawyer present. He would also welcome comments on reports that some people extradited to Tajikistan were subsequently held incommunicado.

15. Tajikistan appeared to have frequent recourse to diplomatic assurances and he asked what steps the authorities were taking to ensure that persons extradited were not at risk of being subjected to torture. Lastly, he wished to know more about plans to build the capacity of forensic medical services and to improve the training of doctors and experts who were involved on the ground as well as to increase the access of detainees to an independent doctor.

16. **Ms. Sveaass** (Country Rapporteur) asked how often the provisions of international instruments ratified by the State party were invoked by the courts. She also wished to know whether the human rights commissioner of Tajikistan had full powers to monitor all places of detention and whether he had sufficient financial resources to carry out his work effectively.

17. With regard to training, she asked what plans were envisaged to train medical staff in conducting forensic medical examinations and whether it was common for medical staff to be involved in assessing allegations of torture. Could the delegation provide an update on the preparation of a training manual based on the Istanbul Protocol? Detailed information on training to combat the excessive use of force would also be welcome.

18. She requested the delegation to provide details of the mechanisms in place to ensure that impartial and full investigations were conducted into all allegations of deaths in custody. Could it also provide all available information on any cases where the families of suspects who had died in custody had challenged the official explanations for the causes of death? Could the delegation also indicate whether the families concerned had immediate access to the body of their relative, the full results of the forensic medical examination and the statements of the officials responsible for the arrest and detention of the deceased? She also asked the delegation to provide disaggregated data on deaths in custody that had occurred during the reporting period and information on steps taken by the State to reduce delays in investigations into allegations of torture and ill-treatment.

19. She asked what steps were being taken to improve prison conditions, particularly sanitary conditions, and to reduce prison overcrowding. She asked whether it was true that a young boy of 16 placed in a juvenile correctional facility had attempted to kill himself several times and that he had been placed in solitary confinement as a punishment.

20. She invited the delegation to describe the procedures for implementing the recommendations and reports of the human rights commissioner and to give examples of recommendations that had been followed up. She sought clarification regarding the access of NGOs and other international organizations, particularly the International Committee of the Red Cross (ICRC), to places of detention.

21. She requested more detailed information concerning legislation on violence against women, its implementation, measures to protect victims and alleged victims, and steps taken towards prevention. Violence against children was also a matter of concern. She asked the delegation to describe any measures adopted in that area and to indicate whether the State party intended to prohibit corporal punishment within the family.

22. She requested information on the laws and mechanisms to ensure redress for the victims of torture and on reparation and compensation measures ordered by the courts from which victims had actually benefitted. With regard to rehabilitation, she expressed concern that it was provided by NGOs only and asked whether the State party also intended to offer such services. Information on rehabilitative measures actually provided to victims of torture would be welcome.

23. **Mr. Bruni** asked whether ICRC had unrestricted access to places of detention. Referring to the written replies of Tajikistan (CAT/C/TJK/Q/2/Add.1), he wondered why under Tajik law information on the number, location and capacity of prisons and the number of detainees held was secret. He noted that it was the first time that a State party had kept such information secret and observed that the State party had nevertheless provided some statistics on the prison system in paragraph 176 of its periodic report (CAT/C/TJK/2).

24. As Tajikistan had stated that steps had been taken to renovate disciplinary cells, he would like the delegation to specify the current size of those cells and whether they had

access to natural light, were heated and ventilated and met hygiene standards. Information on the length of confinement of detainees would be welcome. The delegation might also give more details on the impact of the economic crisis, which it had claimed had prevented Tajikistan from making the investment needed to bring conditions of detention into line with international standards.

25. **Ms. Belmir** said that the public prosecution service should not accumulate too many responsibilities, as that undermined its effectiveness. It should delegate some of those responsibilities to an independent body.

26. **Ms. Gaer** said that a number of questions raised by the Committee in the list of issues (CAT/C/TJK/Q/2) remained unanswered. Referring to the sanctions levied against State officials found responsible for acts of violence, she wondered about the lack of tougher sanctions for those who were guilty of ill-treatment or torture. The views of the human rights commissioner of Tajikistan on that matter would be welcome. She asked about the current whereabouts of the three police officers who had been dismissed because of their involvement in the death of Bahromiddin Shodiev. She wished to know whether it was true that two of those officers had been granted amnesty. Furthermore, why was the decision taken to close the case involving Khurshed Bobokalonov, who died after being arrested by the police?

27. Citing reports that detainees who did not bribe prison guards were likely to be tortured, she asked whether there were cases where the official cause of death of a prisoner in custody had been challenged by the family concerned and, if so, whether the complainants were successful and received compensation, and whether those responsible were punished. She also wished to know whether the victim's relatives had immediate access to the corpse and the results of the forensic medical examination, or whether they had to wait for completion of the investigation.

28. **Mr. Mariño Menéndez**, noting that the death penalty was not enforced, asked whether the Tajik authorities intended to abolish it, or whether there would simply be an indefinite moratorium. He asked whether there was a special mechanism for child labour inspections and, if so, what the inspection findings revealed with regard to conformity with international standards. He also wished to know whether the powers of military courts extended to offences committed by military personnel against civilians.

29. **Mr. Gaye** considered that, in the light of all the information received by the Committee, torture could be deemed to be systematic in the State party, and that there was a prevailing situation of impunity. He asked the delegation to provide details of the outcome of prosecutions brought against law enforcement and prison officers. He also asked the delegation to provide specific examples of cases of prosecutions brought against judges.

30. **Mr. Domah** asked whether Tajikistan had introduced a procedure for habeas corpus. He enquired about the absence of a law prohibiting the granting of amnesty when it had been established that acts of torture had been committed. He said he was shocked by the fact that an arrest could be made on administrative grounds, as such a measure could only be justified in the case of a criminal offence.

31. **Mr. Wang Xuexian** welcomed the fact that Tajikistan had included a definition of torture in its Criminal Code in March 2012, in accordance with article 1 of the Convention, and noted that a police officer had been sentenced to 7 years' imprisonment for torture under the new criminal provisions.

32. **The Chairperson** sought clarification regarding draft guidelines on detention orders. He asked why human rights organizations were not permitted to conduct visits to places of detention. He asked the delegation to elaborate on steps taken by Tajikistan to combat domestic violence and prevent the practice of unregistered marriages.

The public part of the meeting rose at noon.