

UN Human Rights Council

Intermediary report of the Republic of Tajikistan on implementation of recommendations provided by UN Human Rights Council member states, adopted under Universal Periodic Review of the Republic of Tajikistan

On 3-5 of October 2011 UN Human Rights Council had carried out Universal Periodic Review and upon completion of the review 131 recommendations were provided by UN Human Rights Council members.

In order to implement these recommendation the Action Plan was developed and approved by the President of the Republic of Tajikistan as of 3 of April 2013, known as National Plan of Action of the Republic of Tajikistan on Implementation of the Recommendations provided by UN Human Rights Council during the period 2013-2015

1. On the implementation of the recommendation 88.2.

For the period from 2010 to 2013 Tajikistan had provided 8 periodic reports to UN treaty bodies, out of the 7 are reviewed:

- National Report of the Republic of Tajikistan on implementation of the Convention on Children Rights;
- National Report of the Republic of Tajikistan in implementation of the International Covenant on Civil and Political Rights;
- National Report of the Republic of Tajikistan on implementation of Convention on Elimination of Discrimination against Women;
- National report of the Republic of Tajikistan on implementation of International Covenant on Economic, Social and Cultural Rights;
- National Report of the Republic of Tajikistan on implementation of the Convention Against Torture and other forms of cruel, inhuman and degrading treatment and punishment;
- National Report of the Republic of Tajikistan on implementation of International Convention on Elimination of All Forms of Racial Discrimination;
- Report of the Republic of Tajikistan on implementation of the Convention on the Protection of Rights of Migrant Workers and their Families.

In order to introduce unified mechanism for recommendations implementation national plan of actions were developed with participation of civil society. Corresponding UN mechanisms are regularly informed on status and implementation of these plans.

Tajikistan constructively cooperates with special procedures of UN Human Rights Council, providing it with all requested information.

2. On implementation of the recommendations 88.4, 88.5, 88.6, and 88.7.

In order to adopt measures aimed at implementation of Subcommittee of International Coordination Committee under High Commissionaire on Human Rights and to improve the national institute on human rights, a working group was set up on 25 of June 2013 by a decree of Ombudsman comprising responsible officials from NHRI office.

At the moment in line with certain approved working plan the group studies legislation of other countries regulating the activities of national human rights institutes in particular related to authorities, selection and appointment, pluralism of the personnel, interaction with international system of human rights, funding, as well as immunities for the Ombudsman.

In line with the timeframe set, envisaged amendments are to be provided in the second half of 2014 to the Law of RT on National Human Rights Institution.

3. On implementation of recommendation 88.9.

The issue of setting up coordination center with participation of civil society under the Executive Office of the President of RT to carry out monitoring of implementation of UN Human Rights Council implementation, as well as recommendations provided by UN treaty bodies.

Within the framework of UPR implementation General Prosecution together with OSCE office in Dushanbe and NGO Human Rights Center had developed methodological guideline on effective identification, prevention and investigation of torture. Corresponding workshops and training are conducted for prosecution and investigation bodies to explain the requirements set in the guidelines.

Working group comprising representatives of health care bodies, prosecution and NGO is functioning under the Ministry of Healthcare and Social Protection looking at the issues of Istanbul Protocol implementation and registration of torture and cruel treatment.

4. On implementation of the recommendations 88.10, 88.13, 88.14, 88.15, 88.16, 88.17, 88.18, 88.19, 88.20, 88.21, 88.22, 88.29, 88.30, 88.31, 88.32, 88.33, 88.34, 88.35.

Committee on Women and Family Affairs drafts National Action Plan to implement recommendations of the UN Committee on Discrimination of Discrimination against Women.

This draft plan was discussed during a round table on 17 of January 2014 with participation of ministries and agencies, civil society. In line with the suggestions of the participants the draft was finalized and provided to the Government of the country for review.

In 2014 it is planned to develop and adopt Plan of Action for 2015-2020 on implementation of National Strategy of Enhancing the Role of Women in the Republic of Tajikistan for 2011-2020.

In order to implement recommendation on prevention of domestic violence a Law of RT on Prevention of Domestic Violence was adopted on 19 March 2013.

Committee on Women and Family Affairs in coordination with relevant ministries and agencies and representatives of civil society had developed draft National Programme on Prevention of Domestic Violence for 2014-2023.

To increase level of legal awareness of citizens and to provide legal and psychological support to women, 105 district information centers were set up under local executive authority bodies. In 2013 number of applications in these centers was 14736 citizens, out of them 11128 women and 3608 men. On 70% of cases positive decisions were taken. More than 92% of women received pro bono legal aid.

In 2013 corresponding ministries and agencies had conducted explanatory sessions in all the districts of the country on the issues of rights and freedoms of women, prevention of domestic violence.

Course on prevention of violence against women was introduced in the curricula of Training Center for Judges under Council of Justice.

5. On implementation of recommendations 88.11, 88.58, 88.59.

Due to completion of the key tasks set forth in the Programme on State System of Education in the field of Human Rights in the Republic of Tajikistan, that was adopted by the Resolution of the Government as of 5 June 2001 and in order to improve the system of human rights education in the country, the Government had adopted new Programme of Education in the field of Human Rights in the Republic of Tajikistan for 2013-2020 on 3 December 2012.

The Programme is aimed at gradual expansion and perfection of the awareness and educational systems in the field of human rights, transition to a qualitatively new level of personnel training in line with the requirements of national legislation and international standards.

Given Programme covers human rights education in the system of general education, retraining courses for judges, teachers, civil servants, law enforcement personnel and military servicemen on all the levels.

Interagency coordination council is set up under the NHRI to implement the Programme.

6. On implementation of recommendations 88. and 88.13

With the support of UNICEF in Tajikistan in March 2011 Ministry of Justice had launched Sector on Juvenile Justice.

In 2013 Ministry of Justice had approved Action Plan on Juvenile Justice had approved Action Plan on Juvenile Justice for 2014. One of the priorities of this plan is further improvement of legislation, putting it in compliance with international norms in particular Convention on Children Rights.

From 1 to 3 of August 2013 forth Forum on Protection of Children in Central Asia was conducted, co-hosted by the Government and UNICEF which serves as a high level platform in the field of promotion of inclusiveness and enhancing the system of family support which is of benefit to children with disabilities and without disabilities, to their families and society.

To implement recommendations of the UN Committee on Children Rights department on state protection of children rights was set up under NHRI.

Events with the participation of Commission on Children Rights, representatives of educational system, healthcare, interior, social protection, departments on women and youth are carried out on the regular basis in districts and cities of the republic.

7. On implementation of recommendations 88.23, 88.24, 88.27, 88.48, 90.34, 90.35.

In April 2012 Criminal Code of the Republic of Tajikistan had been introduced with the article 143¹, which is fully in compliance with the Article 1 of the Convention against Torture in terms of definition of torture.

Corresponding measures are being taken to increase the severity of the punishment for instigation of torture and exclusion of the punishment not related to imprisonment, possibilities to set up independent investigation mechanisms on cases of torture. In order to enhance the severity of criminal persecution a working group under the General Prosecution and Ministry of Justice is set up which also includes NHRI representatives.

8. On implementation of recommendations 88.25, 88.26, 90.34, 90.35, 88.28.

In order to implement the recommendations of the Committee against Torture and Special Rapporteur on Torture Action Plan on prevention of torture was developed and approved alongside the recommendations of the Committee against Torture and UN SR on Torture, Inhuman and Degrading Treatment and Punishment Juan Mendez. A working group on implementation of the Action Plan is set up under the Supreme Court with participation of all relevant ministries and agencies.

To increase professional knowledge of the law enforcement, prosecution personnel and judges workshops and trainings are conducted on prevention of torture. During the last two years Executive Office of the President together with Prosecution, NHRI and with support of UN OHCHR in the country had conducted 60 workshops in all the districts of the country.

In order to enhance legal guarantees of rights of convicted the Law of RT on Order and Conditions of Imprisonment for suspect, accused is adopted on 28 June 2011.

In line with the given law, right from the arrest a person has a right to see the lawyer in private without any limitations in terms of duration of such meetings. The ground for the meeting is the order or a license for carrying out legal activities. Permission of investigator for such a meeting is not required (article 18).

After the introduction of article 143¹ in Criminal Code, Ministry of Interior had developed Plan of Action on prevention of torture by police personnel, instruction on investigation of cases related to violation of service discipline, legal and other violations.

Education and awareness of law enforcement personnel and soldiers is implemented through existing systems of vocational and legal training of law enforcement and military personnel and through the workshops and courses, information sharing meetings with specialists in the field of human rights.

Personnel of Ministry of Interior undergoes examination which includes obligatory testing of legislation on prevention of torture.

Ministry of Interior had installed video cameras in the departments of interior to monitor and control activities of the law enforcement personnel at arrest.

Hot line is set up which is functioning on 24/7 basis.

On 14 of March 2014 upon the initiative of the Ministry of Interior a scientific practical conference on State protection of the participants of criminal process as one of the key aspects of ensuring human rights was conducted.

In order to enhance effectiveness of prevention of torture Plenum of the Supreme Court of the Republic of Tajikistan was adopted on 25 of June 2012 on application of the norms of criminal and criminal procedure legislation on prevention of torture.

In order to collect and aggregate the data on torture during investigation and trial Supreme Court had introduced a specific complaint card.

In all the courts, prosecution office and system of interior a separate complaint form on torture in introduced.

A working group aimed at conducting monitoring of detention centers with participation of Coalition against Torture was set up upon the initiative of NHRI in order to prevent torture in detention facilities as well as to improve the conditions, ensure system of regular visits, developing and provision of recommendations on ratification of Optional Protocol to Convention against Torture. At present the working group is functioning in compliance with the adopted provisions and plan of work.

Executive office of the President in cooperation with General Prosecution , NHRI and National University and NGOs conduct on a regular basis trainings on international standards against torture in penitentiary institutions.

9. On implementation of recommendations 88.36, 88.37, 88.38, 88.39, 88.40, 88.41, 88. 42.

New draft Law on Combat against Human Trafficking in particular women and children was developed. Interagency commission on combat against trafficking in humans with the support of IOM in Tajikistan and OSCE office in Tajikistan had developed the referral mechanisms for victims of trafficking.

Within the framework of Memorandum on Cooperation that was signed by the Government of RT and IOM Mission in Tajikistan victims of human trafficking are provided with assistance and employment opportunities. Children victims of trafficking are provided with further education as well as support to continue education in general, special and higher educational facilities.

Optional course on prevention of domestic violence was introduced in the Academy of Ministry of Interior since November 2010.

In order to implement the Programme on Prevention of Violence against Women on 17 of March 2010 by an Order of Minister of interior positions of inspectors on prevention of domestic violence were introduced, and with the support of OSCE office in Tajikistan five specialized centers were set up for these inspectors. It is planned to increase the number of such centers in future.

Mostly women are carrying out the functions of such inspectors that had undergone special training.

In order to implement international obligations the Parliament of the Republic had adopted the Law on Prevention of Domestic Violence in 2013. Key objective of the law is protection of rights of family members. The law sets forth possibilities to provide legal, medical and psychological assistance to victims of violence. In order to ensure effective implementation of the law there are 18 crisis centers and 3 branches of such centers . Within delivery departments of different hospitals in several cities and districts of the republic there are consultation rooms to provide medical help to women and children victims of domestic violence.

Since 2010 with the initiative of the Government, NGOs and with financial support of OSCE office in Tajikistan there are regular workshops for law enforcement personnel.

Ministry of Interior together with OSCE office in Tajikistan had implemented joint project on Gender Sensitive Activities of law enforcement personnel and proper investigation and court persecution of domestic violence and protection of victims.

Since October 2011 in line with the order of the Minister of Interior domestic violence is separated into a category and is included in the separate column in statistic reports.

10. On implementation of recommendation 88.44.

On the basis of Judiciary Reform for 2011-2013 several legal acts were developed and adopted which stipulate set up of court collegiums on family and administrative cases, a competition for intern-judges and salaries for judges are increased. At present new judiciary reform programme is being developed for 2015-2017.

11. On implementation of recommendations 88.45, 90.29.

In order to enhance awareness and independence of judiciary a working group to develop new Judiciary Reform Programme for 2015-2017 was set up. This programme is a third phase of judiciary reform which envisages implementation of actions aimed at improving legislation and activities of court.

It shall be emphasized the Council of Justice in accordance with the Constitution is not included in the Executive authority branch of Tajikistan. At present the suggestions on ensuring complete independence of Council of Justice are being developed.

12. On implementation of recommendation 88.46.

With the support of the Government and local government bodies and in cooperation with civil society and international organization penitentiary system is undergoing gradual reforms aimed at humanization and protection of rights of convicted.

Best practices from penitentiary systems of European countries is being introduced in Tajikistan.

Main department of criminal persecution of the Ministry of Justice carries out activities on putting detention centers in compliance with international standards and international minimum standards on AIDS, TB and malaria prevention, support in improving legislative basis in the area in order to ensure further reforms of penitentiary systems and to educate the personnel of the systems are carried out.

Together with international organizations such as OSCE, International Center on Prison Research are working on educating the staff of the penitentiary system on international human rights norms and standards.

Agreements on cooperation are signed with Main Department of criminal persecution under Ministry of Justice and 12 international organizations. Trainings for the personnel are being conducted on prohibition of torture and inhuman treatment in prisons.

To ensure social rehabilitation of released there are 4 social bureaus on the territory of detention centers that have experience in this kind of activities.

Within implementation of the programme on decreasing drug addiction and with the support of CADAP international organization a rehabilitation center for drug addicts was

constructed. With the support of international organization CARITAS-Luxembourg medical units for TB patients are renovated in all the centers, treatment on DOTS, DOTS+ is ensure that allowed to settle the problem with early identification of the disease. The activities and prevention work allowed to decrease mortality rate amongst imprisoned.

In line with article 21 of the Code on Execution of Criminal Liability a right to freedom of belief is ensured in every detention center. There are mosques and churches for prisoners.

In May 2012 and February 2014 Tajikistan was visited by UN SR on Torture - Juan Mendez. To implement recommendations that were provided by the SR in 2012 the Government had adopted and is implementing National Plan of Action.

13. On implementation of recommendation 88.47.

At present Main Department on Criminal Persecution under the Ministry of Justice cooperates with the following international and local NGOs: CADP, UNICEF, OSI, Deutch Humanitarian Organization AIDS fund East-West, UNODC, Global Fund on TB and Malaria UNDP, Penal Reform International, European Office of International Association of Prison Services, CARITAS-Luxembroug, CARHAP, NGO Inspiration, NGO Marvorid, NGO Spin-plus, Analytical Consultative Center on Human Rights. Representatives of these organizations had visited prisons on numerous occasions.

Retraining institute of law enforcement personnel, justice bodies and legal institutions and organizations provides regular capacity building trainings for the staff of penitentiary system.

14. On implementation of recommendations 88.49, 90.34.

At present the issues of ratification of Optional Protocol to Convention against Torture is under review. To this end a working group comprising representatives of corresponding state bodies, NGOs including Coalition against Torture was set up. Action plan of the working group was approved which is implemented with the support of OHCHR in Tajikistan, Suisse Development Cooperation office etc.

15. On implementation of recommendation 88.50.

The order of newly born registration is regulated currently by the Law of the Republic of Tajikistan on State registration of civic status.

There is no state fee for the registration of a child, it is necessary to pay for the blank which in line with the resolution of the Government of the Republic of Tajikistan as of 23 February 2010 is 20% of calculation indicator (8 somoni - 1,7 USD).

16. On implementation of recommendation 88.51.

On 19 of March 2013 the Law of the Republic of Tajikistan on Printed and other media was amended.

The law takes into consideration the opinion of journalistic community which was involved in the legal drafting process due to increased influence of the Mass Media on Society in particular independent mass media.

The law is put in the compliance with international legal acts.

The law contains notions on state support of mass media which indicates that: “the State ensures implementation of the rights and legal interests of mass media. State support is implemented through funds allocation, financial support and other types of support in the order prescribed by the legislation of the Republic of Tajikistan”.

17. On implementation of recommendations 88.53, 88.54, 88.55, 88.56, 90.48, 90.49.

Department for prevention of offenses amongst minor and youth was established under the Ministry of Interior by a resolution of the Government as of 30 May 2008. This department protects legal rights and interests of minors.

This departments works with parents or legal representatives of minors that are not implementing their obligations on upbringing, educating and well being of minors and have negative influence on minors or are treating them badly.

If cases of non attendance of educational facilities by minors are revealed, this department and its local subdivisions are carrying out preventive activities. Minors are recorded and measure to ensure enrollment of child in educational facilities are taken.

There is also a record of parents and individual preventive activities are carried out with them.

As to corporal punishment of children as prohibited method of upbringing in line with the article 57 of Family Code a child has a right to protection of his legal rights and interests. In line with article 69 of the Code one of the grounds to withdraw custody rights is cruel treatment of children and physical or psychological violence. When violating rights and interests of children, inadequate care on education and upbringing or abuse of parental rights a child has a right to independently apply to custody body and when reaching 14 years of age the child can refer to court.

As to violence in educational facilities it shall be noted that in line with the Law on education the discipline is preserved on the basis of respect of honour and dignity of students and teachers. It is prohibited to use physical violence and psychological pressure.

Prohibition of child labour is reflected in article 25 of the Law of RT on education which in particular states that it is prohibited to distract from main functions personnel dealing with teaching, students to field and other type of work that is not related to educational process.

The Law on proteciton of rights of children is drafted and is being reviewed by the Parliament.

18. On implementation of recommendations 88.60, 88.61, 88.62, 90.50.

National development strategy for the period 2006-2015 was approved, poverty reduction strategy for the period 2010-2013 and wellbeing strategy of the population for 2013-2015.

Within recent seven years cash income of the population had increased in 4,2 times, number of deposits in 4,5 times and actual average income per worker had increased in 5,5 times. Total volume of budget revenues and expenditures had increased from 1,7 billion somoni in 2007 to 12,2 billion somoni (1 USD =4,76 somoni) in 2013 which seven times more in comparison with 2006.

Alongside increase in state budget funding allocated to social sphere had increased and in 2013 it was 6,4 billion somoni, or half of the state budget. Funding of the educational sphere was increased in 6,7 times, healthcare in 8,6 times, social protection of the population in 6,8 times, culture, sport and services to population in 7,1 times.

If total volume of the social expenses in 2000 was 106 million somoni, in 2013 it increased by 60. Similarly starting from 2006 to 2012 average salaries for the budget employees, stipends, financial support and benefits had increased by 6 times.

In 2012 salaries of social facilities had been increased, including the salaries of pre-school and general educational facilities, orphanages for disabled children and elderly employees by 40% , science, culture - by 30% and stipends by 50%.

Apart from that from 2006 to 2013 pensions were increased by 4,5 times its volume had reached from 212 million somoni to 1,6 billion somoni, i.e was increased in 7,5 times and this policy will be pursued in the future.

As a result of measures undertaken, poverty level in the country had decreased from 81% in 1999 to 38 % in 2012 i.e. almost 45% reduction. Poverty reduction is a result of economic development and macroeconomic and social sustainability.

19. On implementation of recommendation 88.68.

In order to coordinate the actions on promoting civil, political and social rights of labour migrants National Plan of Action on implementation of the UN Committee on protection of the rights of labour migrants and their families for 2013-2017.

To put in order the issues of labour migration, protection of rights and interests of labour migrants and their families Ministry of Labour, Migration and Social Protection together with other involved ministries and agencies of the country had developed the Law of RT on Labour Migration in new edition.

Migration service, its provincial and city divisions had formed working groups with involvement of representatives of local executive authorities. During the meetings of the working groups issues of labour migration including vocational training, knowledge of the language of the hosting country, employment, traditions and customs on the territory of Russian Federation, procedures related to work permits and patent as well as new developments in the legislation of host countries were discussed.

To conduct these meetings Migration service had developed more than 10 types of brochures and posters. Brochures and posters were multiplied and disseminated during the meetings with labour migrants in settlements, airports and railway stations all over the country. 23631 people took part in these meetings in 2013 out of them 8964 women.

NHRI undertakes certain steps on protection of labour migrants. To that end NHRI cooperates closely with his counterparts from other countries. To do so several bilateral and multilateral agreements were signed, including Dushanbe Declaration of NHRI in Central Asia on cooperation, which sets forth establishment of NHRI Council of Central Asia and Regions of Russian Federation.

Memorandum on cooperation with NHRI of Russian Federation and NHRI of Sverdlovsk province were signed in 2011, and in 2013 with NHRI of Saint Petersburg and NHRI of Samara and Orenburg provinces of Russian Federation.

Key objective of these agreements is developing cooperation in the field of human rights, protection of the rights of citizens of the Republic of Tajikistan on foreign territory,

timely information sharing on violations and support of NHRI in reparation of rights through practical steps to enhance effectiveness of legal protection on interstate and regional levels, organization of conferences, workshops and trainings. A working group under NHRI of Tajikistan was set up to promote protection of rights of labour migrants and their families.

20. On implementation of recommendation 88.69.

By a Resolution of the Government as of 4 October 2011 National Strategy of Labour Migration of Citizens of the Republic of Tajikistan for the period 2011-2015 was approved. Key objective of the strategy is to reduce shortcomings in the field of regulating labour migration and preparing the citizens to work abroad.

In order to implement the Resolution of the Government as of 1 August 2008 on record keeping of migrants and their return Migration service had initiated roster aimed to keep record of citizens leaving the country and coming back.

21. On implementation of recommendations 90.1, 90.8, 90.11, 90.19, 90.20, 90.21, 90.22, 90.23, 90.24, 90.25, 90.26, 90.27.

The issue of joining Optional Protocol to the Convention on Elimination of Discrimination against Women is at the stage of ratification.

22. On implementation of recommendations 90.10, 90.12.

A working group was set up in the Republic of Tajikistan in 2010 aimed to analyze social legal aspects of death penalty prohibition. Members of the working group had carried out series of meetings and round tables as well as conferences for representatives of law enforcement and court bodies.

In order to obtain reliable data on the attitude of the population to death penalty and to increase awareness on adopted changes and to identify trends in changing the attitude of the population to the issues Public Organization Nota Bene had carried out social survey from June to August 2013.

Public organization League of Women Lawyers within the framework of projects Activation of civil society on the issues related to death penalty, Involvement of state bodies, parliament, population and civil society to the issue of death penalty prohibition carries out awareness campaigns.

The survey of social opinion to abolition of death penalty is being conducted by the Center on Strategic Research under the President of the Republic of Tajikistan.

Within the framework of the project Study of historic application of death penalty during the period 1917-2004, implemented with the support of Suisse Development Cooperation Office the issues of death penalty abolition are under review.

23. On implementation of recommendation 90.28.

In line with article 51 of the Law of Tajikistan on education teachers and other employees of educational sector are obliged to protect students from physical and psychological violence and to take steps aimed at prevention of alcohol, drug and psychotropic elements usage, tobacco and strong medicines.

In line with the Programme Education in the field of Human Rights for 2013-2020 human rights courses are carried out in all educational facilities. Key topics of the curricula are developed on the basis of international and national legal acts.

24. On implementation of recommendation 90.30.

Within implementation of Plan of Action of Prevention of Torture and implementation of UN SR on Torture recommendations Juan Mendez, on 24 of October 2012 by a joint decree of General Prosecutor and heads of law enforcement bodies had issues the Instruction on arrest.

Instruction envisages explanation of rights to arrested on the spot, immediate access to lawyer, thorough registration of information on arrest, including names and positions of everyone participating in the arrest, access of lawyer to these data and arrested, medical examination as well as notification of relatives of arrested on the fact of arrest and further transfer.

At the same time in order to implement National Plan of Action which envisages amending Criminal Procedure Code, Law on conditions and order of imprisonment for suspected, accused, convicted a working group was set up under the Ministry of Justice.

The resolution of Supreme Court Plenum on application of norms of criminal and criminal procedure code on prevention of torture as of 25 June 2012 sets forth several actions to enhance guarantees of the rights of arrested, including the right to a phone call, considering the moment of arrest as the starting point, criminal liability for violating the rights of arrested including failure to indicate the time of arrest.

25. On implementation of recommendation 90.32.

In order to implement this recommendation a working group was set up under National Legislative Center to study necessity of amending and adding the legislation in order to appeal the legal grounds for administrative arrest in the same scale as existing opportunities of other types of arrest.

26. On implementation of recommendations 90.38, 90.39, 90.40, 90.41, 90.42.

Articles 135 (Insult) and 136 (Slander) were excluded from the Criminal Code in 2012 and Civil Code was correspondingly amended to provide liability for insult and slander, thus these violations are reviewed within the system of civic courts.

27. On implementation of recommendation 90.46.

At present the working group under NHRI studies criminal legislation on violations of procedures for meetings, demonstrations, processions etc. Upon completion corresponding suggestions are to be presented.

In order to humanize criminal legislation a working group drafting new edition of Criminal Law is set up.