



association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture

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APT submission on Tajikistan

14 June 2013

Alternative report from the Association for the Prevention of Torture (APT) to the Human Rights Committee on the national implementation of articles 2(2) and 7 of the Covenant in relation to **Tajikistan**, whose second periodic report will be considered by the Committee during its 108th session in Geneva.

The Association for the Prevention of Torture (APT) is an independent NGO based in Geneva, working for a world free from torture, where the rights and dignity of all persons deprived of liberty are respected. To achieve this vision we:

- *Promote transparency and monitoring of places of detention*
- *Advocate for legal and policy frameworks*
- *Strengthen capacities of torture prevention actors and facilitate exchanges*
- *Contribute to informed public policy debates*

1. Summary

The Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is recognised as a particularly effective way of preventing torture.

While there are on-going discussions in Tajikistan to ratify the instrument, these important exchanges should ideally be expedited in order to make tangible progress to this end. Tajikistan should also allow access to places of deprivation of liberty to other actors, including the International Committee of the Red Cross and civil society.

2. The role of the OPCAT in the prevention of torture

The risk of torture and other ill-treatment exist in all situations where people are deprived of their liberty, particularly in places closed to the outside world.

The Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) was adopted by the UN General Assembly in 2002 and came into force in 2006. It aims to minimise the risks of abuse by opening up prisons, police stations, mental health institutions and all other places of detention to examination by independent watchdogs.

The basic premise behind the OPCAT is that the more open and transparent places of detention are, the lesser the risk for abuse.

3. Background information on Tajikistan

During the Committee against Torture's (CAT) examination of Tajikistan's initial report as long ago as November 2006, the Committee made various recommendations to ensure the systematic review of all places of detention, as follows:

The State party should consider setting up a national system to review all places of detention and cases of alleged abuses while in custody, ensuring that national and international monitors are granted permission to carry out regular, independent, unannounced and unrestricted visits to all places of detention. To that end, the State party should establish transparent administrative guidelines and criteria for access, and facilitate visits by independent national monitors and others such as the International Committee of the Red Cross, the Office of the United Nations High Commissioner for Human Rights and independent non-governmental organizations. The State party should consider becoming party to the Optional Protocol to the Convention.¹

Due to the lack of any tangible progress in the above regard the CAT felt forced to reiterate almost identical recommendations during its examination of Tajikistan's second periodic report in November 2012.²

Currently the Tajik Ombudsperson's Office is the only domestic institution which has a formal legal mandate to visit places of detention in order to prevent acts of abuse taking place. Regrettably, however, it does so irregularly, despite detention monitoring

¹ CAT, Concluding observations on Tajikistan, para.16, UN Doc. CAT/C/TJK/CO/1, 7 December 2006.

² CAT, Concluding observations on Tajikistan, para.14(c), UN Doc. CAT/C/TJK/CO/2, 21 January 2013.

supposedly being a priority area for the institution. Clearly, this institution should be strongly urged to formally perform this crucial aspect of its mandate.

In contrast, civil society organizations continue to be severely restricted in this respect, in spite of the assurances of the Tajik authorities to the contrary. This fact became very clear during last year's European Union-Tajikistan human rights dialogue. In June 2012 the European Union-Tajikistan Civil Society Seminar titled *Freedom from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* took place in Dushanbe, during which the APT was informed that regular access to the penitentiary system was limited to just one NGO, the League of Women Lawyers, which had access to the main (and only) facility for women. The only other on-going monitoring of places of detention appeared to be undertaken by the Tajik Bureau for Human Rights and the Children's Rights Center which had some access to psychiatric institutions, social care homes and orphanages.

Finally, the International Committee of the Red Cross (ICRC) still does not have access to places of deprivation of liberty in Tajikistan. In the past, the organization secured access for relatively short periods of time, including for the purpose of providing food assistance in the period 1997-1998. Moreover, for a nine-month period in 2004 the ICRC had access to a range of police and penitentiary detention facilities on the basis of a presidential agreement. Unfortunately, these activities were suddenly suspended in September 2004. At the present time the ICRC is said to be in negotiation with the Tajik authorities to allow the organization to resume its activities, some nine years after the cessation of its detention monitoring activities.

Despite the fact that relatively little has been done to act on the CAT's 2006 and 2012 recommendations to ensure the systematic review of all places of detention, a dialogue has opened up on this topic, which is a positive development in itself. Since 2009, there have been several initiatives in order to promote the importance of detention monitoring and the ratification of the OPCAT. In May 2009, the APT co-organized a two-day round-table event on the topic in Dushanbe, while in 2010 and 2011 OHCHR's Regional Office in Central Asia co-sponsored a series of regional workshops on torture prevention, including the OPCAT. It should also be stressed that the Tajik authorities co-sponsored and participated in all of these events, indicating at the very least that they are open to discuss the issue of OPCAT ratification, albeit to date without any tangible result.

Most recently, in December 2012 the APT, OHCHR and other actors initiated a round-table discussion to see whether a National Preventive Mechanism, comprising the Ombudsperson's Office and civil society actors, could be initiated on a pilot basis. These discussions resumed in early April 2013 and at the time of writing were on-going, although no concrete decision appears to have been taken in this regard.

4. Suggested recommendations

In light of the background material above, the APT proposes that the Human Rights Committee make the following recommendations to the delegation from Tajikistan:

Articles 2(1) and 7:

- Tajikistan should ensure that its Ombudsperson's Office effectively implements its mandate to monitor all places of deprivation of liberty;

- Tajikistan should ensure access to all places of deprivation of liberty by other actors, including civil society and the ICRC;
- Tajikistan should accelerate the current domestic discussions and ratify the OPCAT in the near future;
- Tajikistan should ensure that any consultation process on the OPCAT should be open, transparent and inclusive, as recommended by the UN Subcommittee on Prevention of Torture in its Guidelines on National Preventive Mechanisms; and
- In doing so, Tajikistan should consider allowing joint monitoring between the Ombudsperson's Office and civil society on a pilot basis.