

## Amnesty International

### **Statement for Working Session 4: Rule of Law I, including:**

- Right to a fair trial

According to Amnesty International's research, frequent violations of the procedural rights of detainees in Tajikistan compromise their right to a fair trial. Many of these concerns are outlined in detail in Amnesty International's recent report on **Tajikistan** "*Shattered Lives: Torture and Other Ill-treatment in Tajikistan*" which was published in July 2012 and is available in English, Russian and Tajik. Some particular elements of concern are:

#### *a) Incommunicado detention:*

The current system in Tajikistan allows for routine incommunicado detention for indefinite periods of time without access to the key safeguards against torture and other ill-treatment such as: the right to have a relative or third party informed of the detention; the right to access a lawyer and the right to a medical examination.

Amnesty International's research shows a link between instances of torture and other ill-treatment and incommunicado detention. In Tajikistan, despite provisions in habitual law, in practice lawyers' access to their clients is often significantly delayed; detainees are often not able to inform family members of their whereabouts within 12 hours of detention and in some cases for several days; there are no routine medical examinations upon initial admission to police stations and temporary detention facilities.

For example, Asad Shukuraliev and his uncle Akhmad Saidev were arrested in late January/ early February 2011 on suspicion of stealing livestock in the Sughd region. They were reportedly kept for four days in incommunicado detention during which time they were allegedly subjected to physical and psychological torture and other ill-treatment in order to force them to confess. Their lawyers were not able to see them for over a month from the time of initial detention.

#### *b) Remand Hearings and pre-trial detention*

Often in Tajikistan judges at remand hearings only examine the question of whether to remand a person in custody or to grant conditional release, and disregard allegations of procedural violations in pre-trial detention, referring alleged victims and their lawyers to the prosecutor to lodge a complaint.

Amnesty International is concerned that in practice detainees are kept for too long under the control of their interrogators or investigators and are sometimes transferred to pre-trial detention facilities (SIZO) from police custody after much longer than the 72 hours provided for by law in Tajikistan.

#### *c) Prohibition of Torture*

Incentives for police officers to resort to torture and other ill-treatment are often stronger than the deterrents in Tajikistan as policemen are reportedly unofficially assessed according to the number of crimes they solve. Such a system increases the risk of police officers holding a suspect in unofficial detention, and of using torture or other ill-treatment to obtain a confession.

Amnesty International is concerned about frequent reports of routine torture and other ill-treatment of people detained on charges relating to national security and religious extremism in facilities run by specialised departments of the Ministry of Internal Affairs and the Security Services.

Often, allegations of torture are not investigated effectively and often victims are harassed for complaining. Amnesty International calls on the authorities to ensure that effective and impartial investigations into the credible allegations of torture in case of Ilhom Ismonov and his co-defendants, the case of residents of Khojai-Alo village Farhod Dadoboev, Nasim Salimzoda, Muhammadsharif Umarov, Ravshan Khollov and Yosin Safarov and their witnesses Sahrif Abdurahimsoza, Masoleh Soliev, as well as other cases.

There has been little progress in investigating cases of deaths in custody, such as those of Bahromiddin Shodiev, Khurshed Bobokalonov, Safarali Sangov, Ismonboy Boboyev.

*d) Testimony Obtained Under Torture Or Other Ill-Treatment Used In Court*

Despite the provisions of the Criminal Procedure Code, evidence extracted under torture is reported to be routinely used in court, and allegations of torture by defendants are often dismissed by judges.

**Recommendations:**

In view of the above, Amnesty International is concerned that the Tajikistani authorities have failed in their obligations to ensure fair trials. Amnesty International's recommendations include that:

- The Criminal Procedure Code should be amended to state that detention must be registered at a police station within three hours of the moment of deprivation of liberty, and that detainees' procedural rights should be explained at the moment of deprivation of liberty.
- The Tajikistani authorities should take immediate steps to ensure that the right to a lawyer is enforced in all places of pre-trial detention in practice, without exception.
- All law enforcement officials, including officials of the State Committee for National Security and the Sixth Department of Ministry of Internal Affairs should be informed of this by internal circulars which make it clear that disciplinary measures will be taken against officers who violate the procedural rights of detainees.
- In addition to routine medical examinations, when there is reason to believe that a prisoner has been ill-treated, the prisoner should be given an immediate medical examination by a doctor who is able to make an accurate report without fearing interference or reprisals.

Amnesty International also urges the authorities to take immediate steps to ensure fair proceedings or retrial for all individuals, including those cases highlighted in our report, who are currently detained or imprisoned following unfair trials.