Joint NGO submission to List of Issues: Tajikistan

CEDAW - Convention on the Elimination of All Forms of Discrimination against Women

PRE-SESSIONAL WORKING GROUP 87 (30 MAY - 2 JUN 2023)

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Introduction

Over the past decade, the Coalition of Civil Society against Torture and Impunity in Tajikistan (further Coalition) has documented numerous cases indicating that women and girls are regularly victims of torture, sexual coercion, insults, humiliation, beatings, and other inhumane treatment by police and law enforcement officials.[1] Between 2019 and 2022 the Coalition documented 26 cases of torture and ill-treatment of women in Tajikistan. For the same period the Coalition provided rehabilitation support to 73 women, including 26 victims and 47 relatives of victims of torture. However, these figures do not reflect the reality of what happens to women in closed institutions. According to lawyers, many women are subjected to sexual violence, but because of severe societal stigmatization of such issues, these cases largely go unreported and victims prefer to remain silent.

In its concluding observations, the CEDAW Committee repeatedly recommended Tajikistan to prioritise measures for eliminating violence against women and ensure that women and girls who are victims of violence have access to immediate means of redress and protection, and perpetrators are prosecuted and adequately punished."[2] However, despite the high level of violence against women, both domestic and custodial, to date no complaints have been submitted to the Committee. The state's reluctance to register and properly investigate all cases of violence against women has resulted in these cases not being heard in higher courts.

Although Tajikistan acceded to the Optional Protocol to CEDAW in 2014, to date no complaints have been submitted to the Committee, because it is difficult to exhaust all remedies at the national level. As a result,

[1] Freedom From Torture: the Coalition of Civil Society against Torture and Impunity in Tajikistan *https://notorturetj.org/en*

[2] CEDAW/C/TJK/CO/3, 2007, para 22.

perpetrators enjoy almost absolute impunity, making law enforcement officials feel untouchable and above the law.

Police abuse

Violence against women in detention very often includes rape and other forms of sexual violence, such as threats of rape, touching, being stripped naked, insults, and humiliation of a sexual nature. Victims of police abuse and brutality usually include young, poorly educated, and underprivileged women, which leads to their further marginalisation. As the UN Special Rapporteur on torture stated *"in addition to the physical trauma, the mental pain and suffering inflicted on victims of rape and other forms of sexual violence are often long-lasting, in particular as a result of subsequent stigmatisation and isolation."*[3] For these reasons, in most of the reported cases, women, especially in rural areas, do not report such violence for fear of social stigmatisation or because the police had failed to take appropriate action in previous cases, as well as because of possible reprisals by abusers.

The few victims who were brave enough to report the violence to the Coalition Legal Aid Unit constitute a small percentage, while in most cases women prefer not to speak openly about the humiliation they have suffered.

In summer 2019, the Coalition Legal Aid Group registered the case of a 24-year-old resident of Vakhsh district, N.B., who had been subjected to ill-treatment and violence by the district internal affairs officers. The young woman was brought in on suspicion of theft and detained for almost two days, during which police officers used various forms of humiliation to force her to confess to the crime, including insults, threats and torture. According to the victim, she was blindfolded and forced to run quickly down a narrow office corridor, causing her to run into the wall several times and fall. She was also beaten repeatedly, which caused her severe pain. She was later given an injection, which partially paralysed her and she could not feel her arms and legs. Taking advantage of her condition and helplessness, she was then raped by a police officer.

To date no police officers have been brought to justice in this case. Although, the victim identified one of the duty officers of the Vakhsh District Department of Internal Affairs to her lawyer, the management refused to inform the lawyer of his name.

For about a year now, the victim's complaint of torture has been examined by various official bodies, from the General Prosecutor's Office, the Prosecutor's Office of Vakhsh District, Vakhsh District Court and Khatlon District Prosecutor's Office, but N.B. has not received any official response at the time of writing.

Rape and sexual harassment at the hands of law enforcement officers

It is widely recognised that rape "carried out by, at the instigation of, or with the consent or acquiescence of public officials" constitutes torture and the perpetrators must be brought to justice.[4] However, there are cases when women and young girls become victims of sexual violence when they turn to the law enforcement agencies with complaints.

In October 2018, a resident of the village of Pakhtakor, Pyanj District, S.H. turned to a local police officer, with a complaint about her neighbour. After registering the complaint the police officer reportedly locked the door of his office and raped the woman. According to the victim, the police officer threatened that if the incident became

[3] UN Special Rapporteur on Torture, Gender perspectives on torture (A/HRC/31/57), para. 51.

[4] Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3, para 34.

known, he would make her as disabled as her mother, who has been paralysed and bedridden for years. However, the victim says she was in any case too ashamed to tell anyone what happened, as it would have brought disgrace on her and her family.

Taking advantage of her weakness and his own impunity, the police officer continued to harass the young woman for more than eight months, raping and beating her until eventually she contacted a medical expert to record the beatings. The medical examination documented a broken arm, nose, as well as injuries to the ribs and chest. The victim filed a complaint against the police officer with the Department of Internal Affairs of Khatlon province. However, the beatings and threats did not stop and the police officer then attacked S.H with a knife, injuring her seven-year-old son who attempted to defend his mother.

As a result, the police officer was fired but was not prosecuted. To the date his victim does not give up hope for justice. In January 2020, when she repeatedly addressed the General Prosecutor's Office with her complaint, she was told that an investigation was being conducted, however, no additional information has been provided since that time. as

Torture and ill-treatment against female relatives of the suspect and detained persons

Female relatives of suspects and detainees are also among the victims of violence in places of detention. There are cases where suspects confess to a crime under duress, including after threats of rape against their mothers, wives or daughters.

A. CASE OF H.Y.

In the autumn of 2017, police officers in Tursunzade arrested H.Y on suspicion of murder. Immediately after his arrest, a video was shown on central television in which Yodgorov confessed to the murder. However, nine months later, H.Y was released after the real killer was apprehended. After his release, H.Y. reported that the confession had been made under torture and ill-treatment, to which his mother, his wife and even his eight-year-old daughter were also subjected.

Sh.N, H.Y's mother, was subjected to ill-treatment from the time of her son's arrest. When attempting to enter the police station, the person on duty slammed her hand in the door, so she stood for 20 minutes, until passers-by helped push the door and free the woman's hand. When her son was charged with murder, Sh.N herself was tried as an accomplice, for allegedly having hidden a stolen bracelet and the deceased's phone. For two weeks, she was summoned daily for extensive questioning, during which she was reportedly insulted, called a "thief" and "mother of the murderer" in front of her son, who cried in silence. During one interrogation, police officers made her son kneel and beg his mother for money to stop the abuse. According to Sh.N, she was asked for $6,000.

Law enforcement officials also harassed, insulted and humiliated T.I, H.Y.'s wife and his eight-year-old daughter, threatening them that if H.Y. did not confess to the crime the child would be sent to an orphanage. As a result of the interrogations, the child suffered psychological trauma and developed nervous enuresis (urinary incontinence).

A criminal case was initiated against officers of the Tursunzade Internal Affairs Department Sherali Azizov, Saadi Davlatmurodzoda and Eradj Naimov, for the use of torture and ill-treatment against H.Y. and his family members. The first trial was held in July 2019 at the Supreme Court of Tajikistan, but on 16 January 2020, the judge decided to return the case for additional investigation due to the fact that "... there were a number of flaws and violations of procedural norms..."[5] In particular, the judge stated that the criminal investigation should have been initiated not only against the police officers who had committed the torture, but also against the judge of Tursunzade City Court, who had tried the case of administrative detention, and the leadership of the Internal Affairs Department and the Ministry of Internal Affairs, who failed to exercise proper control over the actions of their officers.

In June 2021, three police officers were found guilty under Article 143 1 - Criminal Code and sentenced to various terms of imprisonment ranging from 10 to 13 years.[6] In November 2021, the Cassation Chamber on Criminal Cases of the Supreme Court upheld the decision. In November 2022 Sh.N filed a lawsuit for moral damages against the police officers, but died in December 2022, and the case was thus dismissed.

b. CASE OF M.Z. AND M.S.

On 16 December 2017, officers of the Internal Affairs Department of the Shohmansoor district of Dushanbe detained M.S. and two of her minor children, while they searched for her husband in connection with alleged theft of money. According to M.S., police subjected her to electric shocks in an attempt to obtain information about her husband's whereabouts. The torture reportedly continued for three days, during which the children were held at the police station and allowed to sleep on chairs. In addition, the police also detained M.Z., sister-in-law of the suspect, and subjected her to beatings and humiliation as well.

One year later, the General Procurator's Office initiated criminal proceedings against Shohmansur District Police Officer F. Nurhonov and other persons under six articles of the Criminal Code, including the use of torture.

On 16 December [h] 2019, the Dushanbe court found the defendants guilty on all charges and sentenced them to the following punishment: Nurhonov F. - 17 years' imprisonment, Sabzaev A.- 9 years' imprisonment, Wakhobov U. - 7.5 years of imprisonment, and Ikroriddin Akhliddin - 9 years of imprisonment.[7]

Violence against female sex-workers

The level of stigma, discrimination, human rights violations and violence against sex workers remains high. They are often perceived as a major source of HIV transmission, despite the fact that, according to the National HIV Epidemic Program 2017-2020, HIV prevalence among female sex workers is only 3.5 %.[8] Nevertheless, most law enforcement officials, medical professionals, and even relatives see the sex industry as evil and believe that those involved in it must be punished.

Female sex workers continue to be harassed and persecuted for "undermining traditional values". In addition, administrative liability for these activities (fines or detention for up to 15 days) has increased as part of efforts to combat prostitution and counter the spread of HIV. There are reports of numerous violations of the rights of detained sex workers during raids, including extortion, threats, blackmailing, verbal humiliation, inhuman and

[5] *https://notorturetj.org/news/press-reliz-0*

[6] *https://mediazona.ca/news/2021/06/20/edgorov*

[7] *https://rus.ozodi.org/a/30328153.html*

[8] *https://moh.tj/wp-content/uploads/2017/08/эпидемии-вируса-иммунодефицита-человека.pdf*

degrading treatment and physical violence. Sex workers are often ill-treated by police when detained, but are afraid to report these incidents even to NGO representatives for fear of further reprisals. NGO reports demonstrate that law enforcement officials demand sexual services for free by means of violence and blackmail.[9]

Social and family stigmatisation

Often, the suffering caused by sexual violence by public officials goes 'beyond the suffering caused by classical torture', as victims fail to find support from either society or family members, which often leads to isolation.[10] In the context of Tajikistan, often families, including parents and husbands, abandon victims of sexual violence, condemning them to destitution and poverty.

Victims of sexual violence face a high level of stigma which is seen at the individual level as well as within the family or community and at the institutional level, including the judiciary. Guilt and shame, fueled by traditional prejudices, often discourage victims from talking about their experiences.

The cases mentioned above clearly demonstrate lack of support from state and judicial bodies. Women who are victims of torture face several difficulties. According to national legislation, they must independently prove that they are victims of torture, which includes undergoing various expert examinations, the gathering of evidence, filing complaints and other steps, which are almost impossible without the qualified assistance of a lawyer. Lawyers are not always available, especially in rural areas. Moreover, female detainees who are victims of rape face major obstacles when seeking justice. The procedures required to pursue a complaint can often lead to the re-traumatization of the victim.

The authorities often fail to effectively investigate complaints about torture and ill-treatment because the investigating institutions are not sufficiently independent. No separate and independent mechanisms capable of carrying out effective criminal investigations and prosecutions have been set up in Tajikistan despite recommendations by the CAT, the Human Rights Committee (HRC) and the Special Rapporteur on torture.

In Tajikistan, women who are single parents or divorced women face discrimination. Often victims of violence complain of rough treatment, even in the prosecution system, when they are branded 'beva' (divorced or widowed), which is seen as an excuse to treat her roughly and/or impolitely. In colloquial speech, the word is used for the purpose of humiliation.

In addition, victims of torture are often criminal suspects, and face negative social attitudes – which disproportionately affect women. The principle of the presumption of innocence is often forgotten, and a detained person or suspect is often at risk of being subjected to cruel treatment for the purpose of punishment.

It is therefore necessary to promote a policy of zero tolerance for torture in the country and to ensure that all perpetrators are brought to justice.

The authors of this submission welcome recent positive developments in which Tajikistan's courts have begun to draw attention to investigative shortcomings as well as broadening the circle of those responsible for torture and ill-treatment (as seen in the H.Y. case). However, there is also a need to ensure that criminal investigations and

[9] NGO report on Tajikistan's implementation of the Convention on the Elimination of All Forms of Discrimination against Women - 71st session of CEDAW. Shah Ayim Regional Network and Apeiron Public Organization. 2018

[10] Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/7/3, para 36.

trials address all forms of violence and ill-treatment against women and girls, including through the lens of gender discrimination.

Recommendations for the list of issues

1. Ask for information on how a mainstreamed gender perspective will be incorporated in the various strategic documents relating to human rights and freedom from torture, (including the National Human Rights Strategy until 2030 and its Action Plan for 2021-2023, and the Draft Law on Non-Discrimination), which are currently being developed.
2. Ask for specific information on plans to conduct educational activities for investigative bodies on the specifics of working on criminal cases against women victims of torture and ill-treatment.
3. Ask about plans to develop, establish, and fund a state programme for the rehabilitation of torture victims, with a special focus on women, as well as rehabilitation centers where women victims of torture can receive psychological assistance and rehabilitation.