Ref: TIGO IOR 40/2012.192

Ms. Zonke Zanele MAJODINA
Chairperson, Human Rights Committee
Office of the High Commissioner for Human Rights - UNOG-OHCHR
CH 1211 Geneva 10
Switzerland

19 December 2012

Dear Ms Majodina

107TH SESSION OF THE HUMAN RIGHTS COMMITTEE – PRE-SESSIONAL MEETING ON TAJIKISTAN

I am writing with a view to the pre-sessional meeting of the country report task force on Tajikistan during the forthcoming 107th session of the Human Rights Committee from 11-28 March 2013.

Please find below a brief update of recent developments pertaining to Amnesty International’s main concerns in relation to the state party’s implementation of the International Covenant on Civil and Political Rights (ICCPR). The organization remains particularly concerned at the failure of the state party to comply with its obligations under Articles 2, 6, 7, 9 and 14 as well as Articles 19 and 22 of the Covenant.

Further details to the information provided in this letter can be found in the enclosed Amnesty International publications:

- **Tajikistan: Briefing to the United Nations (UN) Committee against Torture – 49th session, November 2012** (Index: TIGO IOR 40/2012.156), 12 October 2012;

**Torture and other ill-treatment of people deprived of their liberty and deaths in custody (Articles 2, 6, 7, 9 and 14)**

Over 2012, Tajikistan has taken some positive steps to address the problem of torture and other ill-treatment. In March 2012, Tajikistan stated its intention to implement recommendations from the UN Human Rights Council’s Universal Periodic Review, such as ensuring detainees access to legal and medical assistance when in custody.² In April, the Criminal Code was amended to include torture as a criminal offence. In June, the Supreme

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Court provided guidelines for judges in cases of alleged or suspected torture or other ill-treatment; and the General Prosecutors' office drafted recommendations for prosecutors on investigating torture cases.

However, despite these developments, Amnesty International continues to receive reports of torture and other ill-treatment in all types of detention facilities, particularly in pre-trial detention. These reports are received from vulnerable people including children, elderly people and witnesses in criminal cases.

After his visit in May, the UN Special Rapporteur on Torture stated that torture and other ill-treatment “happens often enough […] in a wide variety of settings that it will take a very concerted effort to abolish it or to reduce it sharply”.2

According to information received by Amnesty International, torture methods include the use of electric shocks, boiling water, suffocation, beatings, and burning with cigarettes. There were also reports of rape and threats of rape in relation to female and male detainees, and psychological torture.

For more details on the scale of the problem of torture and other ill-treatment as well as torture methods often used see:
- *Shattered Lives*, pp. 12-19

Deaths in custody following torture

Amnesty International documented several cases of deaths of detainees who were reportedly subjected to torture. The organization is concerned that deaths in custody are often not investigated effectively and that officials are rarely punished (see also section on lack of effective remedies below).

For example in September 2012, 27-year-old Hamza Ikromzoda died in prison, allegedly after torture. In October the Prosecutor’s office concluded that he had committed suicide. Allegations have since been made by former cellmates that torture was widespread in the prison unless bribes were paid to prison guards.

Concerning the case of Ismonboy Boboev who died in detention when held by officers of the Ministry of Internal Affairs in Isfara, Northern Tajikistan on 19 February 2010, investigations were opened and closed repeatedly since then. Following registration of the case at the UN Human Rights Committee in August 2012, the General Prosecutor’s Office reopened investigations but announced in November 2012 that the investigations have been closed again due to illness of the alleged perpetrators.

For further details and cases of deaths in custody after torture see:
- *Shattered Lives*, pp. 19, 32-33, 45-46, 48 and 49.

Lack of safeguards and use of confessions extracted under torture and other ill-treatment

Most instances of torture and other ill-treatment occur before the suspect is registered at a police station. Suspects are often not informed of their rights (to see a lawyer, to notify family or the right to remain silent) until the detention is registered, which should happen within three hours of a person being taken to a police station, but which in practice often happens much later. There are reports of incommunicado detention for several days or even weeks.

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before the detention was registered, for example in duty offices of police stations. In some cases detainees report having been driven around the town in police cars for a long time without being informed of their rights to a lawyer or to remain silent.

Detainees are often routinely interrogated without a lawyer and some lawyers reported being unable to see their clients for several days, despite legal provisions ensuring the right of detainees to see a lawyer from the time the detention is registered.

People accused of involvement in banned Islamic movements and Islamist groups or parties detained by the Interior Ministry and the Committee for National Security (SCNS), are at particular risk of torture and other ill-treatment: access to their defence lawyers is routinely denied; and the lawyers have inadequate access to case materials against their clients. In November, the UN Committee against Torture noted “numerous and consistent allegations ... of routine use of torture and ill-treatment of suspects, principally to extract confessions ... primarily during the first hours of interrogation in police custody as well as in temporary and pre-trial detention facilities run by the State Committee of National Security [SCNS] and the Department for the Fight against Organized Crime.”

Lawyers and human rights activists in Tajikistan report that evidence extracted under torture is routinely used in court in relation to people accused of ordinary crimes as well as those accused of participation in banned Islamic Movements and Islamist groups. Despite the Criminal Procedural Code stating that evidence obtained through torture should be excluded from court, there were no cases in 2012 where judges implemented exclusionary measures.

For more detailed information about the lack of safeguards and the use of confessions extracted under torture and other ill-treatment see:

- Briefing to the Committee against Torture, pp 2-5;

**Torture and other ill-treatment upon return to Tajikistan**

Amnesty International is extremely concerned at the increasing number of cases in recent years where people who were extradited to or forcibly returned to Tajikistan by the authorities of other countries have been tortured or ill-treated by law enforcement officials in Tajikistan. In a series of recent cases the Tajikistani authorities have made extradition requests based on unreliable information for people alleged to be members of banned Islamic groups. The Organization is particularly concerned at several recent incidents where applicants to the European Court of Human Rights (ECtHR) were reportedly abducted by Tajikistani security forces operating in the Russian Federation and forcibly returned to Tajikistan. There are concerns that some of these people were subjected to torture and other ill-treatment upon return to Tajikistan.

For example in April 2012, 27-year-old Savriddin Juraev (Dzhurayev) was sentenced to 26 years in prison after being convicted of plotting to overthrow constitutional order “in the period around 1992”, when he was merely seven years old. He had fled to Russia in 2006 and his extradition was requested by Tajikistan in 2009. He was given temporary asylum status in Russia in August 2011. The ECtHR had instructed Russia not to extradite him while it examined his case, but in October 2011, he was abducted in Moscow by unidentified men speaking Tajikistani and forcibly returned to Tajikistan. He told his lawyers he was subjected to ill-

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treatment in detention in Khujand and had been interrogated without a lawyer. [For further details on his case see Shattered Lives, p. 57]

In November 2012, the UN Committee against Torture urged Tajikistan to “cease the practice of abducting and forcibly returning individuals to Tajikistan from other States and subsequently holding them in incommunicado detention, and ensure that they are not subjected to acts of torture”.

For further information about torture and other ill-treatment upon return to Tajikistan see:
- Briefing to the Committee against Torture, pp 2-5;

**Denial of the right to a remedy**

Amnesty International is concerned about the persistence of a general climate of impunity that those responsible for acts of torture and other ill-treatment enjoy in Tajikistan. Although in September 2012 for the first time, a police inspector was found guilty of torture in the case of the 17-year-old boy in Khatlon region and sentenced to seven years, in other cases, law enforcement officials sentenced for “exceeding official authority” were released early under the 2011 Law on Amnesties.

For example, in July 2012, the Dushanbe Prosecutor’s Office ruled to end the criminal investigations against two police officers allegedly responsible for the death in custody of Safarali Sangov in March 2011 and they were amnestied.

Judges at remand hearings regularly disregarded allegations of torture and other ill-treatment by detainees, referring detainees to the prosecutor to lodge a complaint. However, many victims of torture and their relatives reported to Amnesty International that they were afraid to lodge complaints with Prosecutor’s offices for fear of reprisals.

During investigations into allegations of torture and other ill-treatment, victims and their families are often not given regular updates or access to case materials. In May 2012, the Constitutional Court upheld the General Prosecutor’s decision to limit access for the victims of human rights violations to evidence against the alleged perpetrators.

Prosecutors’ offices routinely do not disclose information about how the complaints were examined or the grounds for their rulings that there was no evidence of wrongdoing by officials. Delays by prosecutors in demanding medical examinations on alleged victims of torture or other ill-treatment means that physical traces have sometimes disappeared by the time examinations were carried out.

For further information see:
- Shattered Lives, pp. 43-49,
- Briefing to the Committee against Torture, pp 5-7.

**Freedom of expression and association (Articles 19 and 22)**

On 2 August 2012, the Criminal Code was amended to decriminalize libel, although penalties remained for insulting the President. However, government attempts to restrict the right to freedom of expression of human rights activists, lawyers, medical experts and journalists continue.

\*Committee against Torture, Concluding observations, para 18 b).
In October 2012, Khujand city court ruled to shut down Amparo, a human rights organization monitoring abuses in the army, allegedly for administrative violations. Human rights activists believe the decision was politically motivated and that the charges against Amparo were unsubstantiated. Amnesty International is concerned that Amparo is being punished for trying to collect and publicize information about torture and other ill-treatment of young men of conscription age and their treatment in the military. Currently, Amparo representatives are appealing the court decision. If they lose, they will have to cease their activities immediately.

Two other non-governmental organizations in Sughd region are also facing closure over alleged administrative irregularities—Grajdanskoe Obtshestvo (Civil Society) and Aktsent (Accent), both working on civic education and electoral rights. Grajdanskoe Obtshestvo learned in November that the Regional Justice Department filed a complaint with the local court asking for the liquidation of the group citing administrative violations. Amnesty International is concerned that these latest developments are part of a trend of government attempts to restrict the right to freedom of expression and association in Tajikistan. Groups and individuals perceived to be critical of government officials have experienced intimidation in the past.

For further information see:
- the enclosed Press Release Tajikistan: Dissenting campaign groups should not be silenced;
- Shattered Lives, pp. 50-51.

We hope the enclosed information will be useful for the Committee’s country report task force with a view to the preparation of the list of issues for the consideration of Tajikistan’s state report.

Yours sincerely,

Tania Baldwin-Pask
International Advocacy Programme