

Thematic Alternative Report by the public organizations on implementation of the Convention on Elimination of Discrimination against Women by the Republic of Tajikistan, in regards to implementation of rights of women ex-prisoners in the Republic of Tajikistan.

Present alternative report is dedicated to review the implementation of the UN Convention on Elimination of Discrimination against Women (CEDAW) by the Republic of Tajikistan in regards to rights of women ex-inmates. The report reviews the period from 2013-2018.

The following organizations had contributed to elaboration of given report:

- 1) Public Organization Bureau on Human Rights and Rule of Law;
- 2) Public Organization Jahon;
- 3) Public Fund Your Choice;
- 4) Public Organization INIS.

List of abbreviations

HIV – Human Immune Deficiency Virus

HOPS – Head Office for Penitentiary System under the Ministry of Justice of the Republic of Tajikistan

CEDAW – UN Convention on Elimination of all the forms of Discrimination against Women

UN – United Nations Organization

NHRI – National Human Rights Institution

Structure of the report

The report consists of the following sections:

- I. Concluding observations of the Committee on Elimination of all forms of Discrimination against Women in Tajikistan as of 2013.
- II. Legal Framework
- III. General information.
- IV. Rehabilitation and reintegration
- V. Approaches to obtaining and re-issuing the documents.
- VI. Non-discrimination
- VII. Right to employment
- VIII. Right to housing

Methodology:

The following methodology was applied when drafting give Alternative report:

Desk study: analysis of international and national reports and research works, mass media, available statistics, review and assessment of national legislation compliance with international standards.

- I. Concluding observations of the Committee on Elimination of all forms of Discrimination against Women in Tajikistan as of 2013.**

The Committee on Elimination of all forms of Discrimination against Women had recommended Tajikistan the following:

- ✓ to adopt all necessary measures, including temporary special measures to improve the situation of the group of women in unfavorable conditions, ensure their protection from exploitation and expand their access to services in the field of healthcare, social benefits, education, employment and participation in political and public life;
- ✓ to set up regular monitoring tools to track down the repercussions of social-economic policy on women in unfavorable conditions, including those based on comprehensive and multi-faceted approach in solving concrete problems related to migration that might affect women;
- ✓ to provide comprehensive information and statistic data disaggregated by gender, age and national identity that can be used to assess the situation of group of women in unfavorable conditions.

II. Legal Framework

- ✓ International standards in the field of reintegration of former inmates to the society¹ are based on the principle that reintegration shall be launched immediately upon imprisonment.
- ✓ State or other services that are supporting the former inmates to reintegrate to the society shall where possible and necessary ensure that the former inmates are in possession of necessary documents and IDs, are able to find accommodation and employment, have clothing compatible with the season, have funds sufficient to travel to the point of destination and to support them for the period immediately after their release.²
- ✓ Several international treaties³ are urging the states to set up conditions, that provide inmates with paid employment possibilities which shall facilitate their reintegration to the labour market and shall allow them to provide themselves and their families with financial support.
- ✓ “Penitentiary system provides the regime for the inmates, which is aimed at correction and social re-education”.⁴
- ✓ National legislation of the Republic of Tajikistan (Code on Implementation of Criminal Punishment) sets forth key regulations provided by the international standards on providing social support and assistance to former inmates upon release⁵.
- ✓ Prohibition of discrimination in Tajikistan is set forth in the Constitution and other laws, however the list of discriminatory approaches is not exhaustive and does not include “other approaches”.

¹ International Covenant on Civil and Political Rights (p2, art. 10), UN Minimum standards rules on treating the convicts (Nelson Mandela Rules) adopted by the UN General Assembly Resolution 70/175, Annex, adopted on 17 December 2015, etc.

² Nelson Mandela Rule 108

³ UN Minimum standards rules on treating the convicts (Nelson Mandela Rules) adopted by the UN General Assembly Resolution 70/175, Annex, adopted on 17 December 2015

⁴ Point 3 Article 10, International Covenant on Civil and Political Rights

- ✓ There is no unified anti discrimination law in Tajikistan, which provides protection including to such a vulnerable group as women former inmates from various discriminatory approaches in any sphere.
- ✓ Not all the regulations within the national legislation providing benefits to former inmates are implemented in practice.
- ✓ Tajik legislation does not contain clear procedures and volumes for providing social support to this category of people. Former inmates are not the target group for receiving social support and services in Tajikistan as per the legislation.

Recommendations:

- *To adopt comprehensive anti discrimination legislation in Tajikistan.*
- *“To introduce amendments to Code on Administrative Offense of the Republic of Tajikistan of Republic of Tajikistan on punishment for employers as well as staff of educational facilities that refuse former inmates from employment and access to educational facilities due to conviction”.*⁶
- *To identify possibilities to adopt the new Housing Code of the Republic of Tajikistan which sets forth provisions on social housing for vulnerable population, including former inmates, if they don't have housing.*

III. General information:

- ✓ According to the information provided by the HOPS amnesty had covered 9800 people placed in penitentiary facilities. Henceforth, 2100 people were released from colonies, 4700 people had left colonies of settlement types, 3000 had decreased terms of imprisonment.⁷
- ✓ According to the information provided by the Ministry of Justice, over 10000 people are detained in special facilities, preliminary investigation centers (as per the beginning of 2018). There are 321 women and 47 minors amongst convicted.⁸
- ✓ Limited number of public organizations have access to detention facility to provide vocational training to women inmates.
- ✓ Upon release from detention facilities former inmates have dual feelings. On the one hand there is a feeling of freedom, on the other fear of what is going to happen. These people are doomed to be misunderstood, it is difficult for them to settle their private life, find work, they need certain help, further reintegration.⁹
- ✓ Rights of former inmates are being increasingly violated upon their release. Most facilities are not accepting them due to conviction. Unemployment and poverty forces them to commit new offense.¹⁰ According to representatives of public organizations the

⁶Source: web page PO Jahon www.ngojahon.org

⁷ Source: <https://news.tj/ru/news/tajikistan/laworder/20160831/230265>

⁸ Source: <https://www.news.tj/ru/news/tajikistan/laworder/20180131/v-tyurmah-tadzhikistana-nahodyatsya-svishe-10-tis-zaklyuchennih-iz-nih-321-zhentshina>

⁹ Source: <http://dvv-international.tj/ru/news/2016/40-sotsialno-ekonomicheskie-i-kulturnye-prava-osuzhdjonnykh-i-byvshikh-osuzhdjonnykh-v-tadzhikistane-rezultaty-i-perspektivy>

¹⁰ Source: <https://news.tj/ru/news/tajikistan/society/20161210/problemi-trudoustroistva-bivshih-zaklyuchennih-v-hatlone>

most acute problem that inmates are facing upon release is lack of employment. (20 respondents out of 28 or 71% of interviewed).¹¹

- ✓ Former convicts are facing the problem of employment, lack of accommodation, no IDs, problems in renewing these documents due to lack of funds, as well as stigma and discrimination.
- ✓ According to the results of the surveys,¹² 20 % of former inmates (10 out of 50 interviewed) had no place to live upon release. The accommodation was noted as one of the most serious problems, which former inmates are facing upon release by half of the public organizations representatives interviewed (14 out of 28 interviewed, or 50%).
- ✓ Dozens of women released from detention facilities confessed that the conviction stain is not vanishing, the population regards these people with detest and concern.
- ✓ Excessive pressure on former convicts due to family problems affects them negatively. Negative emotions are building up, such as aggression, dissatisfaction, which might further on become reasons for violations and even grave crimes.¹³
- ✓ To implement the Decree of the President of Republic of Tajikistan as of 12 November 2016, National Strategy on Combatting Extremism and Terrorism was adopted for the period 2016-2020. The action plan to this strategy sets forth developing the inmates who are imprisoned for the crimes of extremist or terrorist character rehabilitation programmes... Nonetheless, this Plan covers only limited category of inmates and doesn't not cover all the inmates.
- ✓ Financial support upon release provided by local authority bodies is not regular and depends on the address of the former convict to local executive bodies, his/her health conditions and availability of budget funds.
- ✓ There is a shortage of public organizations in the country which specialize on providing support to former inmates. Penitentiary system facilities are rarely cooperating with public organizations.
- ✓ Employment for this category of people is very challenging due to prejudice of employers and society in general. As a rule the jobs offered to former inmates is extremely low paid and not popular and labour market can not satisfy the needs of everyone looking for good employment.
- ✓ Law enforcement bodies are also stigmatizing former convicts since as soon as the offense is committed in their area, former inmates are the first to be checked and suspected.
- ✓ According to experts "former inmates need help in obtaining documents, medical support, educational support and employment. Most of them do not have accommodation. If better conditions are not provided for their reintegration there is high probability for repeated offense due to unbearable conditions in the society".¹⁴

¹¹ Conducted by the PO Bureau on Human Rights and Rule of Law within the project on Implementation of social economic and cultural rights of former inmates in Tajikistan, 2015

¹² PO Bureau on Human Rights and Rule of Law within the project on Implementation of social economic and cultural rights of former inmates in Tajikistan, 2015

¹³ Source: <https://news.tj/ru/news/tajikistan/society/20161210/problemi-trudoustroistva-bivshih-zaklyuchennih-v-hatlone>

¹⁴ Source: <https://news.tj/ru/news/tajikistan/society/20161210/problemi-trudoustroistva-bivshih-zaklyuchennih-v-hatlone>

Recommendations:

- ✓ *To enhance the awareness of society on problems of women former inmates to eliminate stereotypes.*
- ✓ *To improve cooperation between state bodies and public organizations to consolidate efforts in the field of reintegration to the society of former inmates, especially women.*
- ✓ *To carry out consultations to people to be released and those released already regarding their rights and possibilities after the release. To provide former inmates, specifically women with pro bono psychological, legal and other assistance.*

IV. Rehabilitation and reintegration

- ✓ Penitentiary facilities are responsible for preparing the inmates to living within the society after release, cooperation with state bodies and public organizations responsible for providing them with employment and accommodation.¹⁵
- ✓ The legislation of Tajikistan pays specific attention to rehabilitation of former inmates. rehabilitation methods include calendar plan of activities with convicted since referral to detention facility in individual, group and mass forms. However only insignificant number of hours is dedicated to “Human rights and Civic rights”.¹⁶
- ✓ There is no specific legislation and support programmes aimed at re-integration to the society for former inmates including women, state temporary shelters where former convict can live, get legal, medical, psychological and other help.
- ✓ The instruction¹⁷ on organizing the educational activities for inmates in detention facilities regulates planning, forms and methods of such activities with inmates for their rehabilitation and reintegration in the society upon release.¹⁸
- ✓ Section 13 of the afore Instruction allows public and religious organizations to conduct spiritual sessions amongst the inmates upon securing consent from the management of HOPS. Due to this section public organizations have rights to conduct legal aid sessions amongst inmates. However, not all public organizations are aware of this document, since access to legal acts of such a level in the penitentiary system is limited.
- ✓ Detention facilities face difficulties in organizing educational activities due to lack of qualified personnel, such as psychologists, social workers, human rights experts. In the colony for women and minors this gap is filled in by public organization which conduct legal aid sessions. “ Code on Implementation of Criminal Punishment of the Republic of Tajikistan (article 115) sets forth necessity to carry out moral, legal, labour, physical and other activities to support the correctional impact on the inmates. Forms of educational activities are the following: individual, group and mass. When conducting educational

¹⁵ Article 13 Law on Penitentiary

¹⁶ Source: web page PO Jahon www.ngojahon.org

¹⁷ Ministry of Justice, 2007

¹⁸ Source: web page PO Jahon www.ngojahon.org

activities the following aids can be used: printed media, TV, Radio, educational movies, access to library. TVs and libraries are available in all the detention facilities”.¹⁹

- ✓ In December 2013 a monitoring group to visit detention facilities was set up under the National Human Rights Institute (NHRI). It is comprised of the representatives of NHRI, NGO Coalition against Torture and Impunity. The monitoring group conducts visits to closed facilities including those of penitentiary system, paying significant attention to the conditions of people kept there.

Recommendations:

- ✓ *To review the possibility of adopting the law aimed at social reintegration and adaptation of former inmates.*
- ✓ *To adopt state programme on social reintegration of former convicts in consideration with gender aspects.*
- ✓ *“To develop cooperation amongst the penitentiary facilities, state authority bodies, local authorities, centers on social rehabilitation, employment services on implementation of vocational education and training programmes, support programs for reintegration of former inmates”.*²⁰
- ✓ *Содействовать улучшению образовательной деятельности в пенитенциарных учреждениях, в том числе, путем увеличения числа преподавателей (психологов, преподавателей в области прав человека и других экспертов)*

V. Approaches to obtaining and re-issuing the documents²¹

- ✓ There are cases when former inmates do not have IDs in particular passports. For instance, 134 out of 286 people or 47% of people addressing legal aid centers of the Bureau on Human Rights and Rule of Law were interested in renewing/obtaining passports or birth certificates. According to some of the former inmates they are released only with the note on release.
- ✓ Women former inmates are concerned to renew their passports in order to avoid public disclosure on their conviction. Furthermore, often they do not have funds to cover the fees and fines related to obtaining new passport.
- ✓ To get a new passport, it is necessary to provide the residence registration documents. If a person is not registered anywhere she might face difficulties in receiving the passport.

Recommendations:

- ✓ *To provide possibilities for temporary registration of former inmates to obtain identification documents.*
- ✓ *To institutionalize within the legislation preferences for passport issuance for this category of the population.*
- ✓ *To provide practical support to former inmates, specifically inmates in obtaining passports.*

¹⁹Source: Source: web page PO Jahon www.ngojahon.org

²⁰Source: _web page PO Jahon www.ngojahon.org

²¹ Information provided by PO Bureau on Human Rights and Rule of Law, PO INIS, based on complaints of clients

- ✓ *To explain former inmates the rules related to obtaining IDs as well as enhance transparency within the procedures on receiving IDs.*

VI. Non-discrimination

- ✓ Constitution of the Republic of Tajikistan²² prohibits discrimination and guarantees rights and freedoms of everyone, regardless of nationality, race, gender, language, religion, political beliefs, education, social and property status, and guarantees equality for men and women.
- ✓ Other legislative acts refer to prohibition of discrimination, however the element of conviction is no regarded as a discriminatory attribute in any of those. As a rule, legislative norms contain abundant list of discriminatory attributes, which do not have conviction.
- ✓ There is a stigma in the society related to convicts. Certain examples indicate that former inmates, as well as their relatives can be discriminated when applying for jobs or educational facilities.²³
- ✓ “The legislation of Tajikistan, including the Law of Republic of Tajikistan On state guarantees for equality of men and women, does not consider double or triple discrimination of the following categories of population: women former inmates, women living with HIV, commercial sex workers, women abusing intravenous drugs.
- ✓ Gender programmes and other social economic policies valid in Tajikistan,²⁴ do not reflect specific groups of women, such as women former inmates and other vulnerable groups of women. Effective legal mechanisms to react the violation of rights of these vulnerable groups and other vulnerable categories of women and girls are not defined.²⁵
- ✓ In its Concluding Observations in 2013, the Committee on Elimination of all forms of Discrimination Against Women urged Tajikistan to include comprehensive legal definition of discrimination against women in line with Article 1 of the Convention into the Constitution or any other corresponding national legislation. Such a definition shall cover both direct and indirect discrimination in state and private spheres.

Recommendations:

- *Adopt comprehensive anti-discrimination legislation setting forth notions of direct and indirect discrimination as well as multiple discrimination of women belonging to vulnerable groups.*
- *Set forth rights of women former inmates in state programmes and strategies.*
- *Increase the awareness of the population by means of mass media on the rights of former inmates to eliminate stereotypes existing about the given category of the population.*

²² Article 17 Constitution of Republic of Tajikistan

²³ Existing possibilities for education - fundamental human rights within penitentiary system of the Republic of Tajikistan, PO Jahon, 2014. Source: web page PO Jahon www.ngojahon.org

²⁴ State programme on preventing domestic violence for 2014-2023 and adjacent action plan; National state on enhancing the role of women in the Republic of Tajikistan for the period 2011-2020; National Strategy of Healthy Population for 2010-2020; National Development Strategy till 2030; National Strategy for the Development of Education up to 2020; State strategy for the development of labour market till 2020.

²⁵ Alternative thematic report on implementation of Convention on Elimination of all forms of Discrimination Against Women, regarding women with HIV and women from vulnerable groups (former inmates, women abusing intravenous drugs, commercial sex workers) “Network of women living with HIV”, 2018.

- *Support social re-integration of former inmates by means of establishing crisis centers, temporary shelters providing legal, psychologic, medical or other support in regards to multiple discrimination of women former inmates.*

VII. Right to employment

- ✓ The support that is being provided by the state to former convicts is provided in the form of a unemployment benefit in the amount of 400 somoni during the period of 3 months (this is a minimum salary rate in Republic of Tajikistan).
- ✓ Free of charge vocational training is provided in state educational facilities, Adult Training Centers, which is also issuing a certificate.
- ✓ Short term courses on sewing, cooking, computer skills are organized in the colony for women in Nurek. For example one of the public organizations had organized vocational training (sewing, computer skills, hairdressing, bakery) since 2014 till present in detention facility 3\8 in Nurek. Training session on personal growth, business planning and social benefits are also provided there. For the period 2014-2017, 209 women inmates had undergone the training and received certificates. In the same period 208 women inmates were participating in the training on personal growth and civic education, 60 women inmates took part in training sessions on business planning and had received corresponding certificates. The certificates do not indicate that the training was undertaken in detention facility.²⁶
- ✓ There are a lot of women and men among former inmates who do not possess any labour skills. Those options that are being suggested by the employment centers are not suitable due to extremely low payment.²⁷
- ✓ Former inmates, specifically women are not sufficiently informed on the activities of Agency of Labour and Employment of the Population of Republic of Tajikistan.
- ✓ Data collection related to employment of former convicts by the Agency on Labour and Employment is insufficiently developed.
- ✓ The legislation of Republic of Tajikistan provides quota system for former inmates, however, quota system is used insufficiently and employers refusing to employer per quota are not bearing any administrative offense.
- ✓ The legislation of Republic of Tajikistan sets forth administrative liability for ungrounded refusal to employ as per the quota, however the are legal norms to enforce the liability of employers for refusing to hire people on discriminatory grounds.
- ✓ Only 31 % of interviewed employers noted that they would hire former inmates, 29% indicated that they would have refused to hire former inmates, 40% were unable to respond.²⁸
- ✓ Asking a question about criminal or other records of the candidate or his/her relatives is a violation of rights (except for some professions) when recruiting former inmates or their relatives. Code on Administrative Offenses of Tajikistan prohibits any obstacles to legal or physical entities in implementation of their rights and interest, including requesting the documents that are not supposed to be provided as per the law.²⁹

²⁶ Information is provided by PO Jahon

²⁷ Source: <https://www.news.tj/ru/news/tajikistan/laworder/20160905/230411>

²⁸ The survey was conducted among 68 employers. Source: <http://dvv-international.tj/ru/news/2017/54-vtoroj-shans-da-ili-net>

²⁹ Article 607 CAO of Republic of Tajikistan

- ✓ According to official statistics only 4-5 % of former inmates are able to find employment through the Agency.³⁰

Recommendations:

- *To disseminate information including in the detention facilities on services provided by the Agency on Labour and Employment.*
- *To collect statistics on such category as unemployed, former inmates, disaggregated by gender, age, qualification, education and other data, including information on kind of job, position and salary of the staff. Similar statistics shall be collected in regards to refusal to employ former inmates indicating the reason for refusal.*
- *To enhance quota for employment for this category of population.*
- *To set forth administrative responsibility of employers for refusal in employment on the basis of discriminatory grounds, for the second refusal to foresee criminal liability.*
- *To set forth liability of employers requesting additional documents not prescribed by the legislation of Republic of Tajikistan when hiring.*
- *To explain the administrative liability set forth by the legislation to employers refusing to hire potential staff that are referred by the quota of the Agency of Labour and Employment.*

VIII. Right to housing

- ✓ Housing issue is very acute for vulnerable groups of population including former inmates.
- ✓ The legislation in the sphere of housing rights is obsolete and does not contain norms on providing social housing to separate vulnerable categories of population.
- ✓ There is no possibility to provide former convicts with temporary housing or shelters for temporary accommodation of this category of people.
- ✓ Measures aimed at supporting in providing housing by local authorities are insufficient due to limited state housing fund as well as lack of special housing programmes aimed at providing support to this category of population.
- ✓ The housing problem is considered by former inmates as one of the most serious problems they are facing upon release. 20% of respondents former inmates had acute housing problem since they had no place to live.
- ✓ Housing problems arise due to aggravation of relationships within the family amongst former inmates, apart from other reasons.

Recommendations:

- *To set up temporary shelters for former inmates taking into consideration the interests and needs of women former inmates.*

³⁰ Information of 2015, gathered during the survey “Implementation of social economic and cultural rights of former inmates in the Republic of Tajikistan” PO Bureau on Human Rights and Rule of Law in partnership with DVV International with the support of the European Union, 2015.