



**AVAILABILITY AND ACCESSIBILITY OF OPPORTUNITIES FOR EDUCATION -
THE BASIC HUMAN RIGHT - IN THE PENAL SYSTEM OF THE REPUBLIC OF
TAJIKISTAN**

**SUMMARY
OF THE REPORT ON THE STUDY RESULTS**

2014

ABBREVIATIONS

GBAO	Gorno-Badakhshan Autonomous Oblast
MDPE	Main Department of Penalty Execution under the Ministry of Justice of the Republic of Tajikistan
PIs	Penitentiary institutions
CAO	Code of Administrative Offences of the Republic of Tajikistan
CEC	Criminal Executive Code of the Republic of Tajikistan
DRS	Districts of Republican Subordination
MLME	Ministry of Labour, Migration and Employment of the Republic of Tajikistan
MES	Ministry of Education and Science of the Republic of Tajikistan
MJ	Ministry of Justice of the Republic of Tajikistan
PVE	Primary Vocational Education
PSVE	Primary and Secondary Vocational Education
GT	Government of Tajikistan
VTC	Vocational Training College
RT	Republic of Tajikistan
PDC	Pretrial Detention Centers
CC	Criminal Code of the Republic of Tajikistan
FG	Focus Group

Introduction

The Republic of Tajikistan started the reform of criminal execution system in 2002.¹ One of the main priorities of the penal system reform is to humanize the penal system and enhance guarantees of observance of human rights and lawful interests of prisoners in the process of punishment execution.²

At the time of adopting the Programme, the prisoners in most of penitentiary institutions did not have access to secondary, general and vocational education. Secondary schools functioned only in 7 out of 19 penitentiary institutions, and vocational training colleges functioned only in 2.³

Despite of the situation with limited access of prisoners to education, which is violation of one of the constitutional rights of citizens, the Programme tasks did not include special attention to increase the opportunities of prisoners for education.

In 2013, the Country office of the Institute for International Cooperation of the German Adult Education Association (DVV International) in the Republic of Tajikistan in partnership with NGOs "Jahon" and "Bureau for Human Rights and Rule of Law" launched the project on "Social-Economic and Cultural Rights of Prisoners and Ex-prisoners in Tajikistan" funded by European Union and German Federal Ministry for Economic Cooperation and Development. The Project is aimed to contribute to improvement of conditions for realization of the rights of prisoners and ex- prisoners to education, employment, social security and cultural life.

As a part of this project NGO "Jahon" implemented a study on "Availability and accessibility of opportunities for education – the basic human right – in the penal system" dictated by the need to obtain updated information on the situation related to education in the penal system.

The ***purpose*** of the study is to examine the current situation in the penal system of the Republic of Tajikistan on the right of prisoners to education.

Objectives of the study:

- To analyze the legal framework that defines the rights of prisoners placed in the penitentiary institutions to education and social adaptation after release and to compare it with existing international standards;

¹ Decree of the President of the Republic of Tajikistan No 855 of July 26, 2002 "On reforming criminal executive system of the Republic of Tajikistan"; Resolution of the Government of the Republic of Tajikistan No 367 of September 12, 2002 "On implementation of the Decree of the President of the Republic of Tajikistan No 855 of July 26, 2002 "On reforming criminal executive system of the Republic of Tajikistan".

² Reform Program of Criminal Executive System of the Republic of Tajikistan for 2004-2008. Resolution of the Government of the Republic of Tajikistan, #533, dated December 5, 2003.

³ Ibid, Chapter 3, "Analysis of the Existing Criminal Penal System of the Republic of Tajikistan"

- To conduct situational analysis on implementation of legal acts on education in penitentiary institutions, in particular on access to education and rehabilitation programs in penitentiary institutions;
- To explore the opportunities of prisoners serving their sentences to improve access to education and to develop recommendations for improvement of education in the penal system.

The study used qualitative and quantitative methods of data collection and analysis.

Qualitative methods

- *Desk review.* The analysis of laws, codes, regulations and guidelines defining the rights of prisoners placed in the penitentiary institutions to education and social adaptation after release, as well as review of policy documents identifying education policy in the country, with a focus on development of education in the penal system were conducted.
- *Interviews.* To analyze the situation on the right of prisoners to education in the penitentiary institutions, 2 categories of respondents were interviewed to collect relevant data:
 - Prisoners, who are in penitentiary institutions based on standardized questionnaire. There were 15 female and 28 male respondents interviewed in penitentiary institutions;
 - Officers of penitentiary institutions, Main Department of Penalty Execution under the Ministry of Justice of the Republic of Tajikistan, Department of Primary and Secondary Vocational Education under the MLME RT, and independent experts. A total of 10 in-depth interviews were conducted with seven representatives of government agencies and three representatives of public organizations.
- *Focus group discussions.* In the female penitentiary institution, discussions were held among prisoners on reintegration issues after release. Total of 42 participants took part in 2 FG discussions.

Quantitative Methods

Quantitative analysis was carried out based on statistical data provided by MDPE on the level of education of prisoners in penitentiary institutions.

Availability of Primary and Vocational Education Institutions in the Penal System

MDPE under the Ministry of Justice of the Republic of Tajikistan has 19 closed institutions. Of these, 6 pretrial detention centers (one in Dushanbe, one in GBAO, two in Sughd and two in Khatlon) and 13 penitentiary institutions (5 - in Dushanbe, 4 - in DRS, 2 - in Sughd province and 2 - in Khatlon province). Eleven of them are designated to male prisoners, one penitentiary institution for women and one - for minors.

General secondary education in the penitentiary system is supervised by the Ministry of Education and Science of the Republic of Tajikistan. School principals and teachers are appointed and employed by the MES RT. The number of penitentiary institutions having public schools has decreased since the beginning of the reform (2002) from seven to five (three of them include grades 9-12 and two of them grades 5-12). Out of these, one penitentiary institution is for minors and four are for men. The only female penitentiary institution has no public secondary school, although it detains underage girls.

Vocational education in the penal system is subject to control of Department of Primary Vocational Education and Adult Education of the Ministry of Labour, Migration and Employment of RT. This Department is responsible for organization of primary vocational training in the penitentiary institutions and provision of appropriate teaching staff and masters. Over the last 12 years since the beginning of the penitentiary system reform, the number of vocational education institutions increased from two to three. At the time of the study, primary vocational educational institutions were functioning in 3 out of 13 penitentiary institutions on a regular basis.

According to MDPE the number of women in the penal system with no completed secondary education is more than one and a half times higher than the proportion of men (25.0% among women and 14.6% among men), and the proportion of those with vocational education - secondary, higher and incomplete higher education is twice lower compared to men (17.0% among women and 33.5% among men). The findings confirm the need for opening additional schools and vocational schools in penitentiary institutions, especially in the female penitentiary institution.

The study revealed the weaknesses in implementation of the prisoners' rights to rehabilitation while placed in penitentiary institution and social reintegration after release. As the result of situational analysis on rehabilitation of prisoners and their reintegration opportunities, a number of recommendations were developed to consolidate efforts of the state and civil society in empowering prisoners to exercise their rights to education and employment.

Key Findings

➤ The legal framework of the Republic of Tajikistan comply with the minimum international standards on exercising the rights to education of prisoners and released, and even provides more guarantees compared to the minimum standards.

- Prisoners have limited access to general secondary education. Since the beginning of the reform of criminal penal system (since 2002), the prisoners access to education has not improved.
- The existing State Program on Reforming the Primary and Secondary Vocational Education RT for 2012-2020 neither envisages the increase in number of educational institutions for prisoners to obtain professional education nor provides regular update of facilities and resources of existing ones (1 in every three years), which also does not contribute to expansion of prisoners' access to vocational training.
- In spite of the fact that the Primary Vocational Education Law provides the need for training of engineering and pedagogical staff of primary vocational education institutions no less than once in five years, the teaching staff of penitentiary institutions had no training for a long time, which is certainly affects the quality of educational process.
- General secondary and primary vocational educational institutions currently in operation face difficulties with lack of teaching staff and trainers. Despite of the staff shortage, prisoners with the appropriate professional education are not attracted as teachers or masters. The legislative framework does not prohibit hiring of prisoners in penitentiary institutions to work as teachers and trainers. However, the legal acts do not pay special attention to application of labor of prisoners with secondary and higher vocational education in the jobs commensurate to their qualifications, for example, in secondary and vocational education in penal system, i.e., this resource can be used legally (whatever is not forbidden that is allowed).
- Only 22% of all prisoners in penitentiary institutions (according to MDPE) are provided with jobs, although equipment in many penitentiary institutions stands idle (for example, sewing machines in the female penitentiary institution, and equipment for production of building materials in male penitentiary institutions). Penitentiary institutions do not receive orders for production, which could support facilities and resources of vocational education.
- The legal framework does not provide benefits or incentives to customers who have signed contracts with penitentiary institutions for provision of works or services; however, the Law "On Public Procurement of Goods and Services" provides benefits for local suppliers, which use the local raw materials and labour resources.
- Laws and regulations provide special attention to rehabilitation of prisoners. The rehabilitation methods include annual plan to work with prisoners' upon their arrival into the penitentiary institutions through individual, group and mass activities. However, only a few hours are dedicated to human and civil rights issues. The results of interviews and focus group discussions show that the prisoners are very interested in reintegration into education and employment after release, i.e. they do not receive complete answers to these questions in the penitentiary institutions.
- There is societal stigma against persons with criminal record. Specific examples suggest that the released persons, as well as their relatives may be subject to discrimination when looking for employment and education. According to the legal framework, criminal record of released persons is not reflected in any of their documents and they have the right do not disclose this information, but neither the legislation prescribes any ban on discrimination of persons looking for employment or education nor the Code of Administrative Offences of the RT provides punishment for discrimination in hiring of ex-prisoners.

Recommendations

To the Ministry of Justice of the Republic of Tajikistan, Ministry of Education and Science of the Republic of Tajikistan and Ministry of Labour, Migration and Employment of the Republic of Tajikistan:

- To improve cooperation mechanisms between MJ RT/ MDPE, MES RT and MLME RT to ensure full coverage of prisoners without completed secondary school with secondary education, as well as primary and secondary vocational education.
- To amend the State Program on Reforming the Primary and Secondary Vocational Education in the RT for 2012-2020 to increase the number of secondary schools and vocational schools in penitentiary institutions, and to provide regular updates of the facilities and resources.
- To develop cooperation of penal system agencies with the state authorities, local governments, social rehabilitation centers, employment centres on implementation of programs on vocational education and training for prisoners, development of regional programs or contracts to assist in employment and improvement of living conditions of persons released from imprisonment.
- To expand not only the network of vocational schools in penitentiary institutions, but also to focus on a variety of professions that one can master while serving the sentence.
- To provide educational institutions located within the penitentiary institutions with training aids and materials.

To Majlisi Oli of the Republic of Tajikistan (Tajik Parliament):

- To make changes in the Criminal Executive Code of the Republic of Tajikistan on possibilities of employing prisoners with appropriate skills to work in penal system as teachers and masters in the secondary general and vocational education.
- To take under consideration the issue related to non-discrimination of ex-prisoners or their relatives when accepting for employment or in education institution, and to amend the Code of Administrative Offences of the Republic of Tajikistan and include penalties for employers, as well as employees of educational institutions in case of violation of the Law.

To donors:

- To assist in modernization of old workshops and opening of new ones, and creation of base for vocational training; priority shall be given to women's penitentiary institutions.

Ministry of Economic Development and Trade of the Republic of Tajikistan, Tax Committee of the Republic of Tajikistan, Ministry of Justice of the Republic of Tajikistan:

- To develop a system of incentives for the private sector investment in penal system.

To public organizations:

- To create an informal network of NGOs working on rehabilitation of prisoners and their reintegration into the society after release.
- To identify the main directions for cooperation with penitentiary institutions and promote educational work with prisoners and their preparation for release through restoration of social ties, provision of assistance in employment, organization of educational and professional programs in the penitentiary institutions.
- To co-ordinate their work with institutions, organizations and officials who are responsible for rehabilitation and social adaptation of persons served a sentence of imprisonment.
- To participate in all stages of the penal system reforming: in the process of educating employees, monitoring of the situation in penitentiary institutions, and in the process of legislative drafting.

LIST OF INTERNATIONAL AND NATIONAL LEGISLATION, GUARANTING ACCESS OF PRISONERS TO EDUCATION

- Universal Declaration of Human Rights;
- Convention against Discrimination in Education;
- Convention on the Elimination of all Forms of Discrimination against Women;
- International Covenant on Economic, Social and Cultural Rights;
- Standard Minimum Rules for the Treatment of Prisoners;
- Basic Principles for the Treatment of Prisoners;
- Constitution of the Republic of Tajikistan. November 6, 1994;
- The Law of the Republic of Tajikistan "On public procurement of goods, works and services", N184, dated February 24, 2006;
- Law of the Republic of Tajikistan "On primary vocational education". N21, dated April 22, 2003;
- The Law of the Republic of Tajikistan "On Education". N1004, dated July 22, 2013;
- The Law of the Republic of Tajikistan "On the criminal executive system". N51, dated July 15, 2004;
- The Code of Administrative Offences of the Republic of Tajikistan. N513, dated May 19, 2009;
- Criminal Executive Code of the Republic of Tajikistan, N217, dated July 21, 2001;
- Criminal Code of the Republic of Tajikistan. N575, dated May 21, 1998;
- Decree of the President of the Republic of Tajikistan No855, dated July 26, 2002 "On reforming criminal executive system of the Republic of Tajikistan";
- Resolution of the Government of the Republic of Tajikistan No367, dated September 12, 2002 "On implementation of the Decree of the President of the Republic of Tajikistan No855, dated July 26, 2002 "On reforming criminal executive system of the Republic of Tajikistan".
- Model Regulation on the establishment of primary vocational education in the Republic of Tajikistan, Decree of Government of the Republic of Tajikistan N300, dated May 28, 2009;
- The national program on the reform and development of primary and secondary vocational education in the Republic of Tajikistan for 2012-2020. Resolution of Government of the Republic of Tajikistan, №200, dated April 30, 2012;
- National Action Plan on the reforming the system of primary vocational education in the Republic of Tajikistan for 2006-2015. Resolution of the Government of the Republic of Tajikistan, N369, dated June 3, 2007;
- National Strategy of Education Development of the Republic of Tajikistan until 2020. Resolution of Government of the Republic of Tajikistan, N334, dated June 30, 2012;
- Instruction on organization of educational work with prisoners in penitentiary institutions. Ministry of Justice, 2007;
- Instruction on order of execution of punishments, non-custodial prisoner from society. Ministry of Justice, 2007;
- Internal regulations of penitentiary institutions. Ministry of Justice, 2007.

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