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**DEATH PENALTY:
SOCIOLOGICAL SURVEY OF PUBLIC OPINION ON THE ABOLITION OF
THE DEATH PENALTY IN THE REPUBLIC OF TAJIKISTAN**

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This survey was prepared by experts from the Public Foundation Nota Bene in the framework of the Small Grants Programme of Penal Reform International in Central Asia, as part of the project “Progressive abolition of the death penalty and implementation of humane alternative sanctions after a moratorium or abolition”, funded by the European Union (EU) and the Swiss Human Rights Programme. The views provided in the survey can under no circumstances be regarded as reflecting the position of the European Union, the Swiss Human Rights Programme or Penal Reform International.

Introduction

Until recently, the death penalty was applied in almost all countries for different crimes, including treason, murder, robbery and rape, quite often using this punishment against completely innocent people. However, in recent decades the world has been steadily moving towards the complete abolition of the death penalty so that now, near the start of the twenty-first century, global trends have changed dramatically. Today the international community is more widely and consistently moving towards restriction and complete abolition of capital punishment, and the abolitionist movement is becoming more visible. The scope and geography of the death penalty has significantly changed (two-thirds of States worldwide have already abolished it); abolitionists have had a powerful impact on the minds and attitudes of political leaders and millions of people on all continents, forcing them to rethink their attitudes towards this punishment and bringing to the international public debate humanitarian ideas about the value of human life.

At this moment, about one hundred and forty countries have abolished the death penalty in accordance with their obligations under international law. They have recognised the death penalty to be a cruel and inhuman punishment that represents an unacceptable denial of human dignity and integrity. However, despite all the positive steps in this direction, the death penalty still applies in the most populous countries such as China, India, the United States of America and Indonesia. This means that the majority of the world population lives in countries where the death penalty continues to be used as a punishment, meaning that the question of the death penalty is still very relevant.

On 30 April 2004 President Emomali Rahmon announced in Parliament his intention to introduce a moratorium on the death penalty in the country. At the same time, the President stated that “the human life should be treated humanely. The human, and his rights and freedoms, are the greatest and indisputable values, and the right to life holds a special place among them. Indeed, the right to life is natural, and no one has the right to deprive another person of this right.”¹

The Majlisi Namoyandagon (lower chamber of Parliament), on 2 June 2004, unanimously voted for the approval of the new law “on a Moratorium on the Death Penalty” and on 8 July 2004 the Majlisi Oli, the upper house of Parliament, endorsed the Bill and it was signed by President Rahmon on 15 June 2004. The Head of State had pardoned 19 people sentenced to death, and existing death sentences were commuted to the maximum sentence – 25 years’ imprisonment. Subsequently, the Criminal Code of the Republic of Tajikistan introduced life imprisonment as an alternative to the death penalty.

¹Annual Address of the President of the country to the Majlisi Oli of the Republic of Tajikistan 30 April 2004.

The expected next step in this direction should be the signature and ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (OP2), which provides for abolition of the death penalty.

Despite the fact that in Tajikistan the death penalty has not been practised for several years, the question of complete abolition and ratification of OP2 is very important. The possibility of using the death penalty remains in the Constitution “for the most serious crimes” (art. 18). The death penalty remains as a punishment under the Criminal Code of the Republic of Tajikistan.

At present the Criminal Code permits the use of the death penalty for five crimes; however, since the start of the moratorium, no-one has been sentenced to death for these offences. Relatives of those who were executed before the moratorium still do not have a right to information about the places of burial: Article 221 of the Penal Code of Tajikistan says: “The body of an executed prisoner is not given for burial, and the place of his burial is not disclosed”.

In April 2010, a presidential decree established a Working Group to analyse the social and legal aspects of the possibility of abolishing the death penalty in the Republic of Tajikistan. The Working Group is headed by the Presidential Advisor on Legal Policy. Members of the Working Group include the Ombudsman of the Republic of Tajikistan, the Chairman of the Constitutional Court, the Chairman of the Supreme Court, the Chairman of the Council of Justice, the General Prosecutor, the Minister of Justice, the Chairman of the State Committee for National Security, the Minister of the Interior, the Deputy Ministry of Foreign Affairs and the Department of the Constitutional Guarantees of Citizens’ Rights, as well as a representative of the law faculty of the Tajik State University.

Unfortunately, representatives of civil society were not represented in the Working Group, despite already having actively worked in this area for several years. Despite that, the Working Group has actively cooperated with representatives of civil society on raising public awareness of the need to abolish the death penalty in Tajikistan. At the same time, it should be noted that there has been no public information about the activities or results of the Working Group since it began.

According to the members of the Working Group, the main obstacles for the complete abolition of the death penalty is its existence in the Constitution and the population’s “lack of readiness” to abolish the death penalty. In this regard, in 2010 Nota Bene conducted a survey of public opinion on death penalty in Tajikistan, which demonstrated² that the majority of the interviewed population (61.1%) was in favour of the abolition of the death penalty. It is important to note that the retention of the

²“Death Penalty: Public opinion in the Republic of Tajikistan”. Public Foundation Nota Bene, Dushanbe 2010. http://www.notabene.tj/documents/publication/Smertnaya_kazn_issledovanie.pdf.

death penalty as a form of punishment was supported by almost all investigating officers and prosecutors (88%), as well as the majority of public servants and police officers (65% and 69%, respectively). The judiciary had the opposite opinion, with 93% of court employees and judges advocating abolition of the death penalty.

The issue of the death penalty was also discussed in the course of the country's first Universal Periodic Review (UPR) by the UN Human Rights Council in 2011. The Republic of Tajikistan received many recommendations that it urgently abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.

According to the National Action Plan of the Republic of Tajikistan to implement the UPR recommendations, signed by the President on 3 April 2013, the government is planning to conduct domestic processes for the ratification of OP2 in 2013-2014.

During his annual speech to the Parliament on 26 April 2013, President Emomali Rahmon said: "Another pressing issue that requires a final decision is to determine our position regarding the death penalty. As you know, since June 2004 the death penalty in Tajikistan has been suspended. Indeed, human life is a precious gift and the deprivation of life means the termination of human existence, an individual and member of society. In human civilization, the denial of the death penalty by the state is first of all recognised as a sign of humanity, compassion and progress of the society. From this point of view, it is time for the issue of the death penalty to be considered by the relevant authorities, taking into account public opinion."³

In its Concluding Observations on Tajikistan's compliance with the ICCPR in July 2013, the UN Human Rights Committee mentioned that "while welcoming the continued moratorium on the death penalty, the Committee regrets the slow progress of the process to abolish the death penalty and remove it from the State party's Criminal Code (art. 6)" and recommended that Tajikistan "expedite its efforts to abolish the death penalty and remove it from the Criminal Code and to ratify the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, in line with the information provided on the President's commitment to do so".⁴

The present study of public opinion on the death penalty in Tajikistan was conducted between June and August 2013. The main purpose of the study was to obtain reliable information about public opinion on the death penalty in Tajikistan, its awareness of the changes that have occurred in this area and to see any changes in attitude since 2010.

³Полный текст послания президента Таджикистана парламенту, Asiaplus, 26-04-2013
<http://news.tj/ru/node/142537>

⁴Please refer to point 8 of the Concluding Observations of the UN Human Rights Committee CCPR/C/TJK/CO/2.

As previously mentioned, in 2010 a Working Group was established to examine the legal and social aspects of death penalty abolition in the country. The representatives of the working group conducted a series of workshops and roundtables, as well as conferences with the participation of the law enforcement and the judicial system. In cooperation with the League of Women Lawyers, public information campaigns were conducted on this issue. In this connection, the present study could assess if these measures affected public opinion on the death penalty in Tajikistan.

The monitoring group expresses its deep gratitude to the Council of Justice of the Republic of Tajikistan and the General Prosecutor's Office of the Republic of Tajikistan for their assistance in conducting a survey among judges and prosecutors. Special thanks goes to the Sociologist Zuhra Madamedzhanova, interviewers Mamadod Odinaev, Tatiana Khatyukhina, Zafari Safar, Shoira Davlatova and Abdurahmon Sharipov, as well as to all those without whom this survey would have been impossible. We also thank the Swiss Government and the Regional Office of Penal Reform International in Central Asia (PRI) for their financial support for this study.

Methodology

To ensure the participation of a socially and geographically representative sample in the questionnaire and focus groups, the project involved a sociologist. In total 34 districts were surveyed across Tajikistan: 8 districts in Sughd Region, 4 districts in Gorno Badakhshan Autonomous Oblast (GBAO), 12 districts in Khatlon Region; 6 districts in the Regions of Republican Subordination (RRS), and 4 districts in the city of Dushanbe.

Khatlon	Sughd	GBAO	RRS	Dushanbe
Vakhsh	B. Gafurov	Khorog	Tursun-zade	I.Somoni
Farkhor	Kanibadam	Rushan	Gissar	Shohmansur
Sarband	Istaravshan	Ishakashim	Rusaki	Sino
Kulyab	Shahristan	Roshtqala	Faizabad	Firdavsi
Vose	Chkalovsk		Varzob	
Dangara	Penjikent		Shahrinav	
Norak	Spitamen			
Shaartuz	Ayni			
Kabodiyon				
Bokhtar				
Jilikul				
Kurgan Tube				

The survey used the random sampling method in order to obtain high-quality objective data. This method is often used to make it equally likely that all possible respondents can participate in the survey, with the number of respondents

participating from each of the selected districts varying in accordance with the population in each district.

The survey was conducted via interviews, using questionnaires drawn up by the researchers.

In total 2,074 persons were interviewed, including 455 in Dushanbe; 406 in the Regions of Republican Subordination; 408 in Sughd; 153 in GBAO and 652 in Khatlon.

The results were also compared with the results from the 2010 study conducted by Nota Bene, which surveyed 2,043 people.

To efficiently process the questionnaires, a special computer program for automatic data processing was developed.

MAIN OUTCOMES OF THE SURVEY

The monitoring results demonstrated the main trends of changing/preservation of the death penalty among the population of the Republic of Tajikistan, which include:

1. There are now statistics available on the number of persons sentenced to life imprisonment. According to the information from the Main Directorate of Administrating Punishment under the Ministry of Justice, at present more than 60 people are serving sentences of life imprisonment in Tajikistan.
2. In April 2013 the President, in his annual address to Parliament, said: “Another issue that requires a final decision is to determine our position regarding the death penalty”. In June 2013, a permanent Working Group was created to make the final decision on this matter. This Working Group will replace the existing one, which completes its work in December 2013, and will consider the practical issues of death penalty abolition in the country, such as amending the Criminal Code, elimination of the death penalty as a form of criminal punishment and the ratification of the Second Optional Protocol to the ICCPR.
3. The Working Group created in 2010 to analyse the social and legal aspects of the possibility of death penalty abolition, did not formally include representatives of civil society. However, the Working Group has actively cooperated with representatives of civil society on raising public awareness of the need to abolish the death penalty in Tajikistan. The newly established Working Group includes representatives of civil society, which could help to make the Working Group’s activities more transparent and open.

4. Representatives of the Ministry of Internal Affairs of the Republic of Tajikistan declined the request to take part in the survey without further instructions from the Minister of Interior. A corresponding letter was sent to the Minister, Rakhimov Ramazon. The Ministry refused to participate in the survey.

5. The number of citizens that are in favour of the total abolition of death penalty in Tajikistan increased by 6% (from 61.18% in 2010 to 67.18% in 2013). Correspondingly, there is an almost 10% reduction of those in favour of retaining the death penalty – 19.14% (in 2010 this was 28.98% of respondents). The number of people unsure of their opinion on this issue also increased from 10% in 2010 to 13.07% in 2013.

6. The monitoring group was not intended to study the causes of people's opinions on the death penalty. The reason is that the sociological sample and the anonymity of the surveys did not allow for identifying persons who had been involved in similar surveys and whose opinion may have changed. At the same time, during the survey, 12 respondents stated that they participated in various events devoted to the abolition of the death penalty, which were conducted by the League of Women Lawyers. All 12 respondents were in favour of abolition, which indicates the effectiveness of awareness-raising campaigns in the country that aim at the abolition of the death penalty.⁵

7. Figures have not changed with respect to where respondents live, or regarding their professions.

8. The rural population mostly supported abolition of the death penalty, as opposed to the urban population, which is in favour of preserving capital punishment. The vast majority of capital punishment supporters were registered in Khatlon region, while the smallest number of death penalty supporters came from GBAO.

9. Representatives of the prosecution and investigation agencies support the retention of the death penalty, while judges are convinced that the death penalty should be removed from the statute books. This in turn indicates the low efficiency of abolitionist information and educational activities focused on these groups.

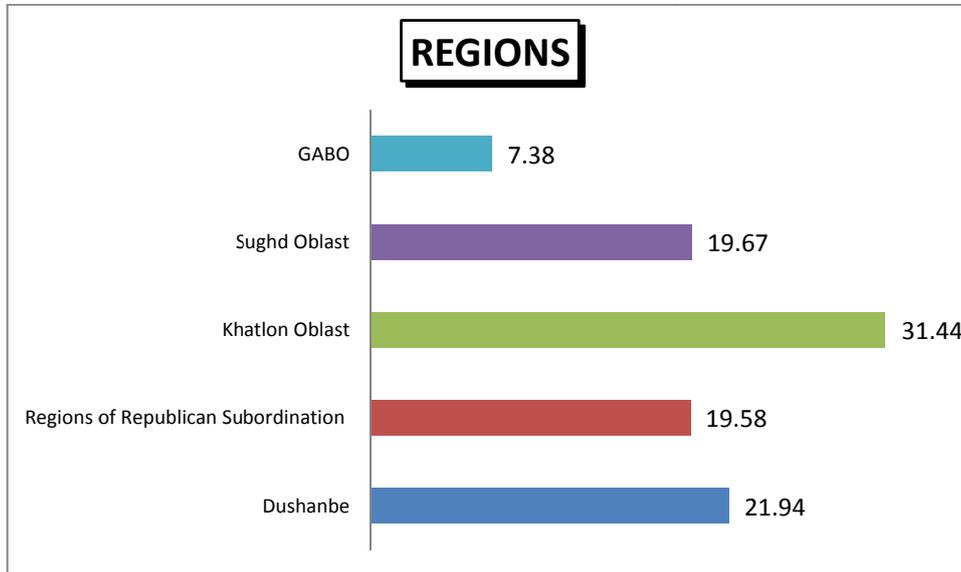
Results of the survey

⁵ In the framework of the project “Involvement of state bodies and civil society to abolish the death penalty in Tajikistan”, a number of information campaigns were held, which were attended by over 680 people. The project was implemented by the NGO League of Women Lawyers with the support of the Swiss Cooperation Office in Tajikistan. <http://www.deathpenaltyabolition.tj/>

General information about respondents

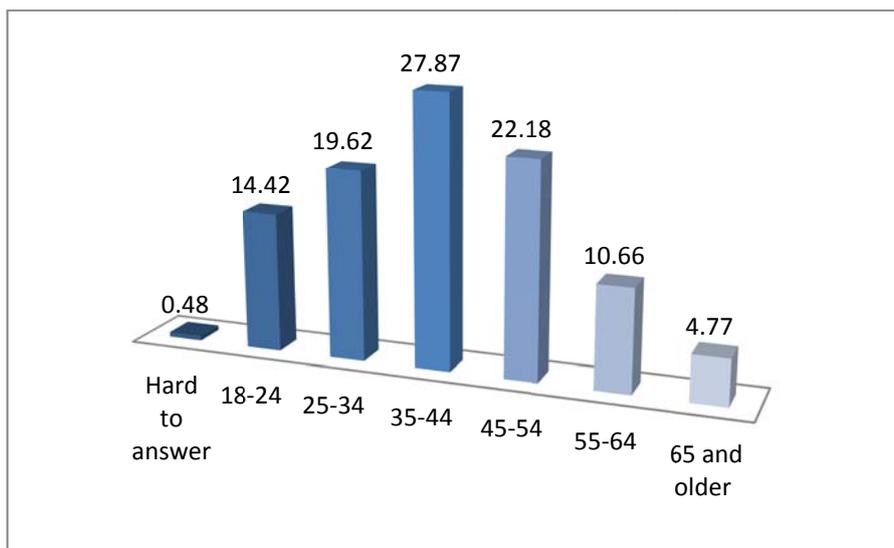
In total, 2,074 respondents aged 18 years and above were interviewed (see Table #1), of which 60.9% were men and 39.1% women.

Table #1



The bulk of respondents were aged between 35-44 years (27.87%) and 45-54 years (22.18%).

Table #2



Among the respondents, 27.39% had higher education, 22.90% had secondary education, 20.35% secondary-special education, 17.50% incomplete higher education,

4.92% incomplete secondary education, 6.03% had elementary education and 0.92% could not answer the question.

In this study, representatives of 168 professions were interviewed. The largest groups of respondents were traders, students and teachers, agricultural workers (farmers), the unemployed, drivers, housewives, medical professionals, economists, government officials, judges and prosecutors.

Table #3

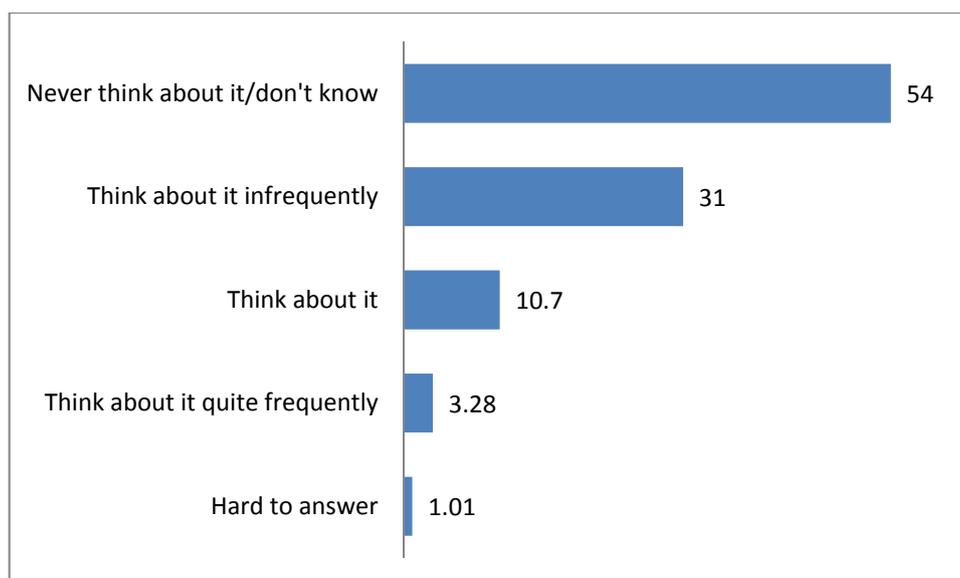
Profession	%
Pensioners, housewives and the unemployed persons	33.23%
Students and teachers	9.27%
Members of various professions (engineers, doctors, economists, etc.)	15.09%
Representatives of small and medium-sized businesses	19.22%
Farmers	8.7%
Members of the judiciary and law enforcement	4.9%
Government employees	6.81%
Civil society representatives (journalists, NGO staff, etc.)	2.78%

Public attitudes towards the death penalty in Tajikistan

The issue of the death penalty is not relevant to the Tajik population.

More than half of respondents never thought about death penalty issues, either in the country or around the world (54%). In some cases people started thinking about these issues while watching TV crime shows or reading newspaper articles about the murder and rape of minors or women (31%). Those who believed in the necessity of the death penalty justified this with reference to the high level of crime in the country. For example, in Faizabad district, the survey was conducted shortly after the brutal murder of a security guard of a local bank. Many of those interviewed in this area were using this case as an example and expressed their indignation at the offenders' actions. Those respondents who often thought about death penalty issues in the country (13.7%) linked their opinion to the crime rate in the country, the development of the legal system and religious beliefs that reject the death penalty. They also indicated that there is a moratorium on the death penalty and that the death penalty is prohibited by law.

Table #4(%)



People's attitudes towards the death penalty

The results of the survey showed that more than half of the country's population favours total abolition of the death penalty in Tajikistan – **67.18%**, which is exactly 6% more than in 2010. Correspondingly, there is an almost 10% reduction in those in favour of retaining the death penalty – **19.14%** (for comparison, in 2010 28.98% of respondents favoured the death penalty). The number of people unsure of their opinion on this issue also increased from 10% in 2010 to **13.07%** in 2013.

Public attitudes towards the death penalty also varied according to where the respondents lived.

Table #5 (number of respondents)

Attitude regarding the death penalty	Dushanbe	Sughd	Khatlon	RRS	GBAO
In favour of the death penalty	72	123	117	69	16
Against the death penalty	344	202	446	272	132
Unsure whether for or against	39	83	90	62	5
Total	455	408	653	403	153

For example, in the Gorno-Badakhshan Autonomous Oblast, out of 153 interviewed respondents, 16 were in favour of the death penalty. In Faizabad (60 respondents) and Rudaki (70 respondents) districts of RRS, those supporting the death penalty varied from 45 to 51.

The study demonstrated that supporters of death penalty abolition in Tajikistan mostly come from rural areas, while the urban population is more in favour of capital punishment. These figures are practically identical to the figures from 2010.

In explaining their **opposition** to the death penalty, respondents had mentioned the fact that no one has the right to deprive a person of life – 52.60 % (21.59% in 2010), that life imprisonment is a fair punishment – 45.47% (35.19% in 2010), the potential for judicial errors – 22.90% (11.7% in 2010), that it is inhumane – 18.18% (9.54% in 2010), that the death penalty does not lead to crime reduction – 8.97% (14.59% in 2010) and that other countries have abolished the death penalty – 2.84% (7.68% in 2010).

Respondents gave the following reasons for why the death penalty should be abolished:

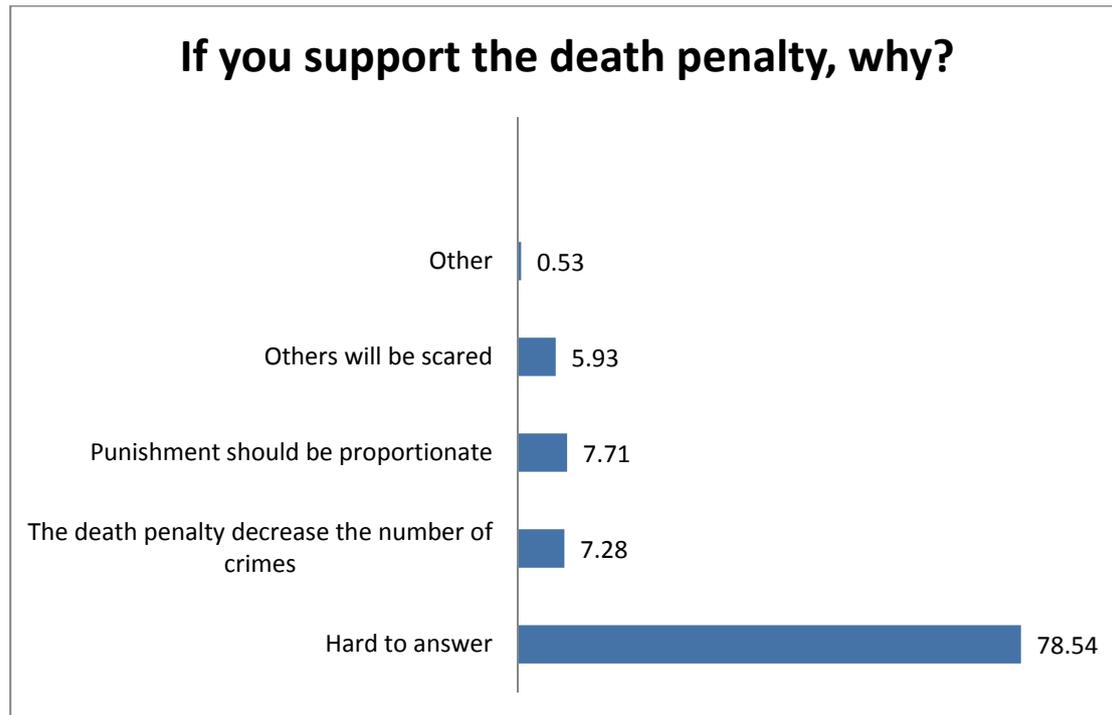
- “The death penalty is unacceptable because of the possibility of judicial errors.”
- “I am convinced that life is given to man by God and only He can decide the time of the Last Judgement.”
- “I believe that no-one has the right to decide about the life of another person. Otherwise, we will be no different from the murderers. A life sentence is sufficient punishment for the guilty one. We just need to improve the justice system.”

In the Kubodien district of Khatlon province, several respondents indicated that “there is already a very small male population in Tajikistan. Almost everyone left the country to go to Russia as a migrant worker. Why would the government kill the remaining men and young boys?”

Supporters of the death penalty justified their opinion by claiming that the death penalty restores social justice and that everyone should be responsible for their actions, and that freed offenders will commit new crimes. They supported their arguments with reference to increased cases of kidnapping, rape and murder of children. In GBAO respondents who were in favour of the death penalty said that the death penalty was necessary as a method of combating corruption:

- “The death penalty should be applied in cases when a person acts as a predatory animal. I think it should be done in public so that others will think twice before committing the same crime, since we all want to live.”
- “The USA – a democratic country, but there is the death penalty, with several methods of execution (from electrocution to lethal injection and gas). Rapists and maniacs, by definition, do not have the right to life.”

Table #6



In the course of the research 40 prosecutors and 40 judges were interviewed. Unfortunately, the Ministry of Internal Affairs of the Republic of Tajikistan declined the request to take part in the survey and thus without further instruction the police officers of the Ministry refused to participate in the survey.

It is important to note that the attitude of law enforcement and judiciary professionals towards the death penalty changed little between 2010-2013. The majority of prosecutors supported the retention of the death penalty as a means of punishment – 79% (88% in 2010). The judiciary was quite the opposite, with 84% (93% in 2010) of surveyed court employees and judges advocating for the abolition of the death penalty.

From a legal point of view, the respondents were asked to what extent the death penalty violates human rights. Many respondents believed that the death penalty violates human rights (34.91%). The most common argument was that only God gives life to a man, and only He can take it away.

46.77% of respondents were not able to say if the death penalty violates human rights, and another 16.97% answered that the death penalty does not violate human rights.

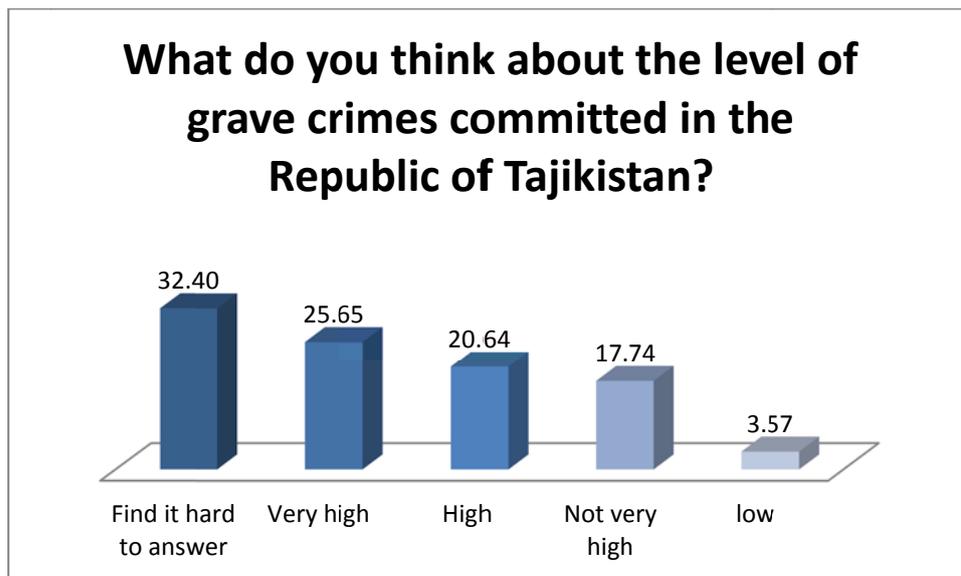
The majority of respondents (64.42%) did not know about the *international instruments regulating human rights issues including the right to life*; some mentioned that they had heard that such documents exist (27.43%) but were not able to list them. Only 4.58% of the total population surveyed were aware of the

international documents, mentioning the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Geneva Conventions. Another 3.57% were unable to answer this question. It should be noted that all interviewed prosecutors and judiciary mentioned one or more of the international instruments regulating aspects of the right to life, as well as providing the date of signature and ratification of these documents by the Republic of Tajikistan. Similar results were obtained in 2010.

A large majority of respondents (79.56%) were not aware of the existing moratorium on the death penalty in the country. 17.07% reported that they knew and explained what the moratorium on the death penalty meant; another 3.38% of the respondents could not answer the question.

Very often, respondents associated the need to maintain the death penalty with the level of crime in the country. In this regard, respondents were asked to estimate the state of crime in Tajikistan. The bulk of the population estimated the level of grave crime in the country as very high or high (25.65 % and 20.64% respectively).

Table #7



Among other serious crimes, the respondents listed murder and rape (predominantly when minors are involved), as well as other offences such as trafficking in drugs, terrorism and extremism, including theft and robbery.

Supporters of the death penalty believe that retention of the death penalty as a form of punishment is necessary for the following offences (see table below):

Table 8

years	Embezzlement, theft, robbery	Rape	Corruption	Terrorism and extremism	Drug trafficking	Murder	Other
2013	2.27%	18%	4%	13.98%	8.10%	21.07%	1,93%

2010	1.71%	22.12%	2.84%	22.42%	7.00%	28.93%	
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According to the table, at the same time as the number of respondents in favour of increasing the punishment for crimes such as terrorism and extremism fell by almost half, the proportion of those wanting death for such crimes as “rape and murder” dropped by a third.

The vast majority of respondents suggested life imprisonment and life imprisonment with the possibility of parole as alternatives to capital punishment, along with imprisonment for 25 years or more as another alternative.

Other suggestions included the following:

- Sending offenders for hard labour
- Deportation from the Republic of Tajikistan
- Work in mines
- Castration
- Enormous fines to be paid to the injured party

More than 130 countries around the world have abolished the death penalty, and every year this number is growing. We asked the population to answer the question whether the Republic of Tajikistan should continue this practice or should it take all necessary steps to abolish the death penalty in the country? According to the survey, 44.7% of respondents believe that Tajikistan should abolish capital punishment, while 13.36% answered that the country should not make this decision for a while and 41.95% were not able to answer the question.

RECOMMENDATIONS

The present recommendations were developed by the members of the monitoring group in light of the results of the survey and the analysis of the activities of other relevant organisations. At the time of writing, we have not received information about the activities of the Government Working Group and therefore these recommendations are developed based on an analysis of publicly available information.

1. The Republic of Tajikistan has to fulfil its international obligations and to take a final decision on whether or not the death penalty should be kept as a form of criminal punishment in the Republic of Tajikistan.
2. The newly established Government Working Group needs to develop a more specific action plan. The plan should include a specific timeframe for a

decision on the death penalty in the country, as well as measures for appropriate changes in the country's legislation.

3. The Parliament needs to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights and to eliminate the death penalty as a form of punishment in the Criminal Code of the Republic of Tajikistan.
4. The Government should remove from legislation on state secrets the rules that classify statistics on the number of executed death sentences and details of the burial sites of the executed, and to take measures to inform the families of the burial sites of those who were executed before the moratorium.