



THE UPR PROJECT AT BCU

Submitted by:

The UPR Project at BCU
Centre for Human Rights, School of Law
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About the UPR Project at BCU:

Birmingham City University's Centre for Human Rights was created in 2014 to promote human rights, ensure access to justice, and enhance the rule of law around the world. We seek to achieve this through leading research, education, and consultancy. We submit expert reports to international human rights regions, provide advisory services to governments and nongovernmental organisations, and draft legal opinions and file legal briefs in domestic courts and international human rights courts.

The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in offering support to the UPR Pre-sessions, providing capacity building for UPR stakeholders and National Human Rights Institutions, and the filing of stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the safeguarding of human rights around the world, and to help ensure that UPR recommendations are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights. The UPR Project at BCU engages with the UPR regularly as a stakeholder and is frequently cited by the OHCHR. You can read more about the UPR Project here: www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu

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INTRODUCTION

1. Tajikistan is party to seven of the nine core international human rights treaties for which it should be commended.¹ This includes the International Covenant on Civil and Political Rights (ICCPR) and in line with the Covenant's protection of the right to life and the prohibition against inhuman punishment, this Stakeholder Report focuses upon capital punishment.
2. We make recommendations to the Government of Tajikistan on this key issue, implementation of which would also see the State moving towards achieving Sustainable Development Goal 16 which aims for peaceful and inclusive societies, access to justice for all and effective, accountable and inclusive institutions at all levels.
3. In this submission, we encourage Tajikistan to commit to improving its human rights protection and promotion by engaging meaningfully with the UPR. This includes giving full and practical consideration to all recommendations made by Member States, effectively implementing the recommendations Tajikistan accepts, and actively engaging with civil society throughout the process.

CAPITAL PUNISHMENT

A. Tajikistan and International Law on the Death Penalty

4. Tajikistan retains the death penalty in law however it has not carried out an execution since 2004, making it a *de facto* abolitionist state.
5. The domestic legal framework governing the death penalty in Tajikistan is primarily set out in its Constitution and criminal legislation. Article 18 of the 1994 Constitution of the Republic of Tajikistan guarantees the right to life but permits deprivation of life pursuant to a court sentence for an especially grave crime, thereby constitutionally retaining capital punishment.²
6. The Criminal Code of 1998 regulates the substantive scope of the death penalty. Article 59 of the Code (amended) lists the 5 offences for which the death penalty may be imposed and confirms that it is not a mandatory sentence. It further establishes key limitations, prohibiting the imposition of a death sentence on individuals who were under 18 years of age at the time of the offence and on pregnant women.³
7. The Criminal Execution Code of 2001 governs the implementation of sentences and procedural safeguards. In particular, Chapter 22 sets out the regime applicable to individuals sentenced to death, including the right to petition the President for clemency

and provisions regulating conditions of detention, correspondence, and visits pending a final decision.⁴

8. On 7 May 2004, the President introduced a bill to the lower chamber of Parliament regarding enacting a moratorium, which was unanimously approved on 2 June 2004 and subsequently endorsed by the upper chamber on 8 July 2004. The legislation was formally enacted on 15 July 2004, when the President signed the Death Penalty (Suspension) Act, thereby establishing an official moratorium on both the imposition and execution of death sentences.⁵
9. Although the 2004 presidential moratorium suspended executions and replaced death sentences with life imprisonment in practice, the punishment remains embedded within the constitutional and legislative framework. This creates a legal contradiction between practice and law, leaving open the possibility of reinstatement.

International Law Promoting the Restriction and Abolition of the Death Penalty

10. The United Nations' framework for regulating the application of the death penalty comprises a corpus of international human rights law and jurisprudence. Of particular relevance are Articles 6, 7, and 14 ICCPR,⁶ its Second Optional Protocol,⁷ the ECOSOC Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty,⁸ the Secretary General's quinquennial reporting,⁹ the Secretary General's Question on the Death Penalty,¹⁰ and the Human Rights Committee decisions.¹¹ Other relevant treaties include the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment¹² and the Convention on the Rights of the Child.¹³
11. The General Comment on the Right to Life¹⁴ provides an interpretive lens on the death penalty and concerning ICCPR Article 6(6), which states, '[n]othing in this article shall be invoked to delay or to prevent the abolition of capital punishment,' it:

reaffirms the position that States parties that are not yet totally abolitionist should be on an irrevocable path towards complete eradication of the death penalty, de facto and de jure, in the foreseeable future. The death penalty cannot be reconciled with full respect for the right to life, and abolition of the death penalty is both desirable [...] and necessary for the enhancement of human dignity and progressive development of human rights.¹⁵
12. The growing international consensus against capital punishment is reflected in the UN General Assembly's biennial resolution to impose a global moratorium on the use of the death penalty. The tenth and most recent iteration of the resolution was passed on 17 December 2024. A total of 130 votes were recorded in favour with 32 votes against and 22 abstentions. Tajikistan has voted yes in all such resolutions to date.¹⁶

13. Tajikistan's voting record is also reflected in its absence as a signatory to the Joint Permanent Missions' most recent *note verbale* of dissociation, which records a formal objection to the Secretary General of the United Nations on the attempt to create a global moratorium on the death penalty.¹⁷ This reflects a sustained and deliberate alignment with the emerging international abolitionist consensus.

B. Implementation of Recommendations from Cycle Three in 2021-22

14. Tajikistan received 234 recommendations in the Third Cycle of which 172 were accepted, 57 noted, and 5 partially accepted.¹⁸ A total of 21 recommendations focused on the death penalty, 18 of which enjoyed State support.¹⁹

Recommendations concerning Tajikistan's Adoption of International Law

15. A number of states recommended Tajikistan ratify the Second Optional Protocol to the ICCPR. This included **Lithuania** (para 123.18), **Portugal** (para 123.23), **Slovenia** (para 123.25), **Latvia**, **Nepal** (para 123.32), **Paraguay** (para 123.33), **Australia**, **Estonia**, **Austria** (para 123.34), **Italy** (para 123.35), **Belgium** (para 123.36), **Cyprus** (para 123.37), **France** (para 123.38), **Iceland** (para 123.39), **Mexico** (para 123.127), and **Uruguay** (para 123.131). These have **not been implemented**.
16. At the international level, Tajikistan's engagement with abolitionist norms has remained cautious but broadly aligned with global trends. The State has supported successive UN General Assembly resolutions calling for a moratorium on the use of the death penalty, signalling a degree of normative commitment to restriction. However, this support has not translated into binding legal obligations, as Tajikistan has yet to ratify the Second Optional Protocol to the ICCPR. The continued non-ratification of this instrument reflects a reluctance to commit to irreversible abolition at the international level.

Recommendations concerning Abolition and/or Official Moratorium

17. Several states also urged Tajikistan to abolish the death penalty. This included **France** (para 123.38), **Mexico** (para 123.127), **Moldova** (para 123.129), **Slovakia** (para 123.130), and **Germany** (para 123.133), with **Iceland** (para 123.39) also recommending Tajikistan "create a timeline with concrete steps to abolish the death penalty by 2026." **Latvia** (para 123.128) recommended the retention of the moratorium with a view to abolition whilst **Costa Rica** (para 123.132) recommended the establishment of a moratorium. Given that a *de jure* moratorium is already in place, the latter recommendation appears to stem from an incomplete appreciation of the current legal framework, while still aligning with the wider objective of advancing towards abolition. Notwithstanding Tajikistan's support for these recommendations, they remain **not implemented**.
18. Whilst such recommendations are welcomed, it is crucial that they remain specific and measurable in order to assess the level of implementation. Broad recommendations, whilst easy to accept, lack any impetus to bring about real change.²⁰ It is recommended that States

adopt a SMART approach to recommendations as recognised by UPRinfo.²¹ This would help Tajikistan initiate an incremental approach to reducing the scope of the punishment and map out the process for abolition.

19. Additionally, it would prove more beneficial if recommending States make reference to the review criteria which includes “human rights instruments to which a State is party.”²² For example reference to Article 6 ICCPR, a treaty the State under Review has ratified, would strengthen any death penalty recommendations.
20. Since its previous UPR, Tajikistan’s legal and political landscape regarding capital punishment has remained largely static, with no executions carried out, reflecting its continued status as “abolitionist in practice.” This sustained non-use reflects a degree of continuity in Tajikistan’s approach to capital punishment and aligns it with a broader global trend towards restriction and abolition. However, the absence of executions has not been accompanied by corresponding legislative reform, leaving the death penalty embedded within the domestic legal framework.
21. The death penalty remains in Tajikistan’s Criminal Code for a limited number of offences, primarily relating to aggravated murder and certain crimes against the state. While the moratorium has effectively suspended its application, the continued existence of these provisions creates a structural inconsistency between law and practice. This legal retention preserves the possibility of reactivation, particularly in times of political or security instability, and therefore falls short of the expectation under international human rights law that States move progressively towards abolition.
22. In the period since the last review, there have been no significant legislative or constitutional initiatives aimed at abolishing the death penalty or narrowing its scope further. Tajikistan has not initiated a formal review process of its Penal Code to remove capital punishment provisions, nor has it articulated a clear roadmap towards *de jure* abolition. This legislative inertia suggests that, while the moratorium remains politically sustainable, abolition has not yet been prioritised as a policy objective. The absence of a defined timeline or institutional mechanism for reform continues to represent a key gap in implementation of third cycle recommendations.
23. Recent developments also indicate that the moratorium, while stable in practice, is not beyond contestation. Public statements by senior officials, including the Prosecutor General and the Minister of Internal Affairs, have advocated for the possible reinstatement of the death penalty in response to serious crimes such as terrorism and multiple homicide.²³ These calls have been framed in terms of public security and retributive justice. At the same time, legal experts and parliamentary actors have resisted such proposals, emphasising that lifting the moratorium would be inconsistent with rule of law principles and has not been formally advanced through legislative processes.²⁴ This divergence of views within State institutions highlights the absence of a consolidated national consensus on abolition and underscores the fragility of the current moratorium.

24. Overall, Tajikistan's position since the third cycle can be characterised as one of continuity rather than progression. While the maintenance of the moratorium is commendable and contributes to the protection of the right to life in practice, the lack of legislative reform, absence of accession to key international instruments, and persistence of political support for retention limit the extent to which the State can be considered on an "irrevocable path" towards abolition. Moving forward, translating *de facto* practice into *de jure* reform will be essential to ensure the durability and credibility of Tajikistan's commitment to human rights.

C. Further Points for Tajikistan to Consider

The Role of the National Human Rights Institution

25. Tajikistan's National Human Rights Institution is the Human Rights Ombudsman of the Republic of Tajikistan, established in 2009 with a mandate to promote and protect human rights, consider individual complaints, and monitor state compliance with international human rights obligations.²⁵ The institution operates as the principal domestic mechanism for engaging with rights violations, including those relating to the administration of criminal justice.
26. In March 2012, the Ombudsman was granted "B status" accreditation by the Global Alliance of National Human Rights Institutions under the Paris Principles relating to the status of national institutions, indicating only partial compliance with international standards, particularly in relation to independence and institutional effectiveness.²⁶
27. In the context of the death penalty, the Ombudsman has a potentially important role in contributing to policy discourse on abolition. This includes advising the government on pathways to legislative reform, supporting public education on the harmful societal impacts of capital punishment, and engaging in evidence-based analysis of its limited deterrent effect. However, its current accreditation status may constrain its capacity to function as a fully independent and robust accountability mechanism in this area, reinforcing the need for strengthened institutional safeguards in line with the Paris Principles.
28. We call upon the Government to ensure full compliance of the Ombudsman with the Paris Principles and to provide it with a mandate to advise on legislative reform towards the abolition of the death penalty.

Adopting the UPR Recommendations to Enable the People of Tajikistan to Benefit from Advances in Effective Penology

29. The right to benefit from scientific advancement should also apply to the progress in social science research on the death penalty. The Universal Declaration of Human Rights, Article 27, states, “[e]veryone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits,”²⁷ and the ICESCR article 15 (1)(b) recognises the right of everyone, “[t]o enjoy the benefits of scientific progress and its applications.”

30. Leading social science and criminological investigations into the death penalty worldwide and have concluded:

[t]hose who favour capital punishment ‘in principle’ have been faced with yet more convincing evidence of the abuses, discrimination, mistakes, and inhumanity that appear inevitably to accompany it in practice. Some of them have set out on the quest to find the key to a ‘perfect’ system in which no mistakes or injustices will occur. In our view, this quest is chimerical.²⁸

31. Social science investigations now demonstrate that reflecting appropriate government means that whilst capital punishment could be created within a legitimate parliamentary process,²⁹ it is now clear that the application of the death penalty renders an illegitimate and inhumane outcome.³⁰ Abolition in Tajikistan would enable the people of the country to benefit from the advancement of the leading social scientific research on punishment policies.

The Universal Periodic Review Recommendations and the Contribution to the Sustainable Development Goals

32. Tajikistan should consider adopting the UPR recommendations as an expression of mutual reinforcement of the government’s commitment to promoting the Sustainable Development Goals.³¹ The human rights values expressed in both the UPR and the SDGs can be woven together to promote policy coherence.³²

33. SDG 16 provides for “Peace, Justice and Strong Institutions” but the application of the death penalty is inconsistent with this goal. Specifically, SDG 16.1 aims to reduce death rates, promote equal access to justice, and “protect fundamental freedoms,” and to further this, SDG 16.A.1 identifies the importance of relevant national institutions, for building capacity at all levels, to prevent violence and combat terrorism and crime.³³

34. The use of the death penalty does not signal legitimate strength in institutions, but renders counterproductive and inhumane consequences, including a brutalising effect upon society. This was affirmed in the Special Rapporteur’s report on ‘pay-back’ violence and killings.³⁴ The death penalty is antithetical to strong institutional processes for the fostering of the human dignity of the people of Tajikistan.

D. Recommendations

We recommend that, before the next cycle of review, the government of Tajikistan should:

- i. Uphold and enforce its international obligations to safeguard the right to life, pursuant to Articles 6, 7 and 14 of the ICCPR.
- ii. Amend the Criminal Code of Tajikistan to remove the death penalty as a form of punishment from the five relevant provisions.
- iii. Remove all references to the death penalty from Article 18 of the Constitution through constitutional reform.
- iv. Ratify the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty.
- v. Ensure full compliance of the Human Rights Ombudsman with the Paris Principles and to provide it with a mandate to advise on legislative reform towards the abolition of the death penalty.
- vi. Affirm its commitment to SDG 16 on access to justice and strong institutions through its support at the next biennial vote on the UNGA Resolution on the moratorium on the use of the death penalty.
- vii. Accept UPR recommendations on the abolition of the death penalty, as also signalling Tajikistan's affirmation of commitments to SDG 16 on strong institutions.

¹ See <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=171&Lang=EN>.

² Constitution of the Republic of Tajikistan 1994 available at <<https://mfa.tj/en/main/view/70/constitution-of-the-republic-of-tajikistan>>.

³ The Criminal Code of the Republic of Tajikistan 1998 available at <www.wipo.int/wipolex/en/legislation/details/10418>. Article 59 states: "1) The death penalty in the form of shooting is established as an exceptional measure only for the following crimes: murder (the second part of Article 104), rape (the third part of Article 138), terrorism (the third part of Article 179), genocide (Article 398), biocide (Article 399)".

⁴ Code of Execution of Criminal Penalties of the Republic of Tajikistan 2001 available at <<https://cis-legislation.com/document.fwx?rgn=2321>>.

⁵ Penal Reform, *The Abolition of the Death Penalty and Its Alternative Sanction in Central Asia: Kazakhstan, Kyrgyzstan and Tajikistan* (2012) available at <https://cdn.penalreform.org/wp-content/uploads/2013/05/Central-Asia-research-report-on-death-penalty-and-life-imprisonment_ENGLISH.pdf> 38.

⁶ International Covenant on Civil and Political Rights (1976) 999 UNTS 171, Article 6 (right to life); Article 7 (the prohibition against torture and inhuman or degrading treatment or punishment); and Article 14 (the right to a fair trial and the principle of equality of arms).

⁷ The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, GA Res. 44/128, December 15, 1989.

⁸ Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, Economic and Social Council Resolution, 1984/50; Additions to the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic and Social Council Resolution 1989/64; and the Strengthening of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic Council Resolution 1996/15.

⁹ See eg, ECOSOC Capital Punishment and Implementation of the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty Report of the Secretary-General UN Doc E/2015/49 (13 April 2015).

¹⁰ See eg, Report of the Secretary General, Question of the Death Penalty, A/HRC/27/23, 30 June 2014.

¹¹ For example, *Judge v. Canada*, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003).

¹² The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 10 December 1984.

¹³ Article 37(a) Convention on the Rights of the Child, G.A. Res 44/25, 20 November 1989.

¹⁴ UN Human Rights Committee, General Comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, 30 October 2018.

¹⁵ *ibid* para 50.

¹⁶ Resolution on the Moratorium on the use of the death penalty, UNGA Res. 62/149, 18 December 2007, *adopted by 104 votes to 54, with 29 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 63/168, 18 December 2008, *adopted by 106 votes to 46, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 65/206, 21 December 2010, *adopted by 109 votes to 41, with 35 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 67/176 20 December 2012, *adopted by 111 votes to 41, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 69/186 18 December 2014 *adopted by 117 votes to 37, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 71/187, 19 December 2016 *adopted by 117 votes to 40, with 31 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 73/175 17 December 2018 *adopted by 121 votes to 35, with 32 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 75/183, 16 December 2020 *adopted by 123 votes to 38, with 24 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 77/222, 15 December 2022 *adopted by 125 votes to 37, with 22 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 79/179, 17 December 2024 adopted by 130 votes to 32, with 22 abstentions.

¹⁷ UNGA, ‘Note verbale dated 13 September 2019 from the Permanent Mission of Egypt to the United Nations addressed to the Secretary-General’ (16 September 2019) UN Doc A/73/1004.

¹⁸ UNHRC, ‘Report of the Working Group on the Universal Periodic Review – Tajikistan: Addendum’ (29 December 2021) UN Doc A/HRC/49/12/Add.1; UNHRC, ‘Report of the Human Rights Council on its forty-ninth session’ (30 November 2023) UN Doc A/HRC/49/2, para 713.

¹⁹ See UNHRC, ‘Report of the Working Group on the Universal Periodic Review – Tajikistan’ (6 January 2022) UN Doc A/HRC/49/12.

²⁰ Amna Nazir, ‘A UPR Perspective on Capital Punishment and the Kingdom of Saudi Arabia’ (2023) 20(1) Muslim World Journal of Human Rights 1-18.

²¹ See UPRinfo, ‘For impact on the ground the UPR needs SMART recommendations’ <www.upr-info.org/en/news/for-impact-on-the-ground-the-upr-needs-smart-recommendations> (21 October 2015).

²² UNHRC Res 5/1 (18 June 2007) UN Doc A/HRC/RES/5/1, para 1(c).

²³ ‘Tajik Experts Oppose the Abolition of the Moratorium on the Death Penalty’ (*CABAR*, 11 Dec 2023) <<https://cabar.asia/en/tajik-experts-oppose-the-abolition-of-the-moratorium-on-the-death-penalty>>; ‘Tajik Experts Oppose the Abolition of the Moratorium on the Death Penalty’ (*ASIA-Plus*, 28 Feb 2024) <<https://asiaplustj.info/en/news/tajikistan/society/20240228/tajik-experts-oppose-the-abolition-of-the-moratorium-on-the-death-penalty>>.

²⁴ *ibid*.

²⁵ See the Ombudsman’s website available at <<https://ombudsman.tj/ru/>>.

²⁶ GANHRI Status Accreditation Chart as of 24 December 2025 <<https://ganhri.org/wp-content/uploads/2026/01/sca-46th-session-accreditation-chart-24122025.pdf>>.

²⁷ It is further recalled that the Human Rights Council determined that the basis of the Universal Periodic Review includes consideration of the Universal Declaration of Human Rights, see, Institution-building of the United Nations Human Rights Council, A/HRC/RES/5/1 18 June 2007.

²⁸ Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (5th edn, Oxford University Press 2015) 7-8.

²⁹ John Rawls stated, “[a]t some point, the injustice of the outcomes of a legitimate democratic procedure corrupts its legitimacy,” in, *Political Liberalism* (Columbia University Press 2005) 248.

³⁰ Austin Sarat stated, “law cannot work its lethal will and ally itself with the killing state while remaining aloof and unstained by the deeds themselves,” in, *When the State Kills: Capital Punishment and the American Condition* (Princeton University Press 2001) 21.

³¹ See the UN Sustainable Development Goals website, <https://sustainabledevelopment.un.org/?menu=1300>.

³² The first two cycles of the UPR were reviewed under a data mining procedure and of the circa. 50,000 recommendations, it was possible to link more than 50% of those to SDG targets, see, The Danish Institute for Human Rights, Linking the Universal Periodic Review to the SGGs, p. 2.

³³ “Goal 16: Peace, Justice and Strong Institutions,” (*Global Goals*) <<https://globalgoals.org/goals/16-peace-justice-and-strong-institutions/>> accessed 6 October 2025.

³⁴ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to Papua New Guinea (3 to 14 March 2014), A/HRC/29/37/Add.1, 30 March 2015, para. 96, “...several interlocutors shared the opinion that the death penalty might actually lead to further killings... given the payback culture. While the Special Rapporteur condemns the existence of the payback culture, he acknowledges that payback-related killings might increase if the death penalty is carried out.