



Report
on Human Rights
in the Transnistrian Region
of the Republic of Moldova

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EXPLANATORY NOTE ON TERMINOLOGY AND LANGUAGE

This report is focused on human rights issues only. Its terminology and language imply no political position.

The territory of Transnistria is not recognized as an independent state by the international community, the unanimous position of which is that it is part of the Republic of Moldova. The Expert has accordingly related to the decision makers in this territory as *de facto* authorities.

The use in this report of such terms as ‘Constitution’, ‘Law’, ‘President’, ‘Minister’, ‘Prosecutor’ and ‘Supreme Soviet’ does not indicate any *de jure* recognition of these normative acts, *de facto* authorities or institutions. These terms are used exclusively for the convenience of the reader and to provide the most precise identification possible of specific documents, *de facto* authorities, office-holders and institutions.

The names of places and other typographical terms differ between the languages in the territory. The report uses the terms the Expert understood was most common in the area. The Appendix gives a more full account of the different names of the places visited.

In some instances the Expert has used the terms “left bank” and “right bank” to indicate territory controlled by the *de facto* Transnistrian authorities and the Government of the Republic of Moldova, respectively.

The views expressed in this report are solely those of the author, based on the independent human rights assessment he was engaged to undertake, and do not necessarily reflect the official positions of any United Nations department, agency or body.

The original version of this report is in English. Official translations are available in Moldovan and Russian. In cases of variations, the English version should be considered authoritative.

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EXECUTIVE SUMMARY

One purpose of human rights reporting is usually to identify shortcomings and problems which ought to be addressed. This report is no exception; it is critical but with the intention to encourage remedial action. At the very end, the Expert has listed some of his concrete recommendations. He has also offered suggestions on what international agencies might contribute in order to promote human rights for individuals in Transnistria.

The work of the Expert focused exclusively on the situation in Transnistria. Though developments there in several respects are dependent on the situation on the right bank, it was not part of his work to analyze this linkage or to make comparisons between the two sides. Nor was he involved in the political negotiation process for the Transnistrian settlement in the 5+2 process.

The Expert has benefited from assistance from the UN Human Rights Adviser, Office of the High Commissioner for Human Rights (OHCHR) and the UN Resident Coordinator to the Republic of Moldova. He has been guided by the agreed international human rights standards and the principle that every human being must be able to enjoy these rights irrespective of where they live.

He visited Transnistria in three separate missions in May, September and November 2012. He met key political decision-makers within the *de facto* authorities, office holders within the judiciary, prosecution, law enforcement as well as within the systems for education, social welfare and health care. He visited a number of institutions holding prisoners, persons with disabilities and children without parents or coming from dysfunctional families.

He had repeated meetings with representatives from the civil society.

He consulted regularly with representatives of the Government of the Republic of Moldova.

He also met with diplomats and other representatives of the international community based in Moldova.

The Transnistrian leadership cooperated fully with the Expert and ensured that he could meet those he requested to see and visit institutions of relevance for his task. At the end of each visit there was a meeting with the Transnistrian leadership at which the Expert presented his preliminary observations. Positive steps were taken soon afterwards, including some further releases of prisoners or reduction of their sentences. Other initiatives were already underway.

During his travels on the territory, the Expert noted that the new leadership had created expectations of a more open society, with a functioning justice system, less corruption and more care for vulnerable people. At the same time, his interlocutors appeared to recognize that the problems are deep-rooted and will require sustained and long-term efforts to be effectively addressed.

Though the Expert visited a large number of different institutions and consulted with a broad range of interested groups and parties, he is aware that the present report cannot be regarded as the final word on all human rights issues in Transnistria. It is simply not possible to develop a full understanding of these complex issues through a few visits within a limited time. It is, however, hoped that the report and its recommendations will encourage a serious discussion aiming at implementation of human rights standards.

Legal obligations and human rights commitments¹

The Transnistrian Constitution contains a list of internationally recognized human rights. In addition to customary international law obligating *de facto* authorities to uphold the most fundamental human rights norms, the *de facto* authorities in Transnistria have also pledged unilaterally to respect some of the key international

¹ The use of such terms as ‘Constitution’, ‘Law’, ‘President’, ‘Minister’, ‘Prosecutor’ and ‘Supreme Soviet’ does not indicate any *de jure* recognition of these normative acts, *de facto* authorities or institutions.

treaties, including the two UN Covenants on human rights,² the European Convention on Human Rights and the Convention on the Rights of the Child.

The Expert noticed that all legislation was not fully consistent with these and other parts of international human rights law and therefore recommends a review of the overall legislation in order to address such aspects.

Also, people at large appeared not to be very familiar with the human rights provisions in the Constitution and some other laws, a fact which points at a need to make the legislation more widely accessible and presented in understandable forms.

Prevention of torture

The Expert received complaints about ill-treatment and even torture of persons in the hands of security officials. Though some positive steps have been taken to stop such abuse of power – for instance, through installing video cameras in interrogation rooms – it is clear that more needs to be done in order to prevent any tendency of such violations.

There has to be zero tolerance with regard to torture and other violent or coercive methods. The term “torture” should be defined in law.

Preventive actions would include recruitment procedures to the police which exclude unsuitable applicants; a code of ethical conduct which is given highest priority in the professional education; continued on-the-job training on how to handle tense situations; and a management with sensitivity to the needs of the society at large.

When it has been discovered that evidence obtained through torture is introduced in court, the judge has an obligation to interrupt the proceedings; evidence produced with violent means must be regarded as inadmissible.

Those responsible for torture must be subject to disciplinary sanctions and effective prosecutions. Any security official facing credible allegations of torture should be immediately suspended until an effective investigation has been conducted. There has to be an effective monitoring of arrest cells through an institution which is ready and equipped to receive complaints. This, in turn, will necessitate a credible system of witness protection.

Role of the prosecutor

The new leadership has initiated a reorganization of the functions of investigation and prosecution in the system of justice – through the creation of an Investigation Committee. The purpose appears to be to professionalize the investigations in criminal cases and to define a less all-encompassing role for the Prosecutor.

This change was decided quickly and the Expert noticed some confusion about its consequences, in particular in relation to the oversight function of the Prosecutor.

The independence and impartiality of prosecutorial functions is essential to guarantee human rights in the administration of justice. In this regard, the Expert refers to the OHCHR Manual on Human Rights for Judges, Prosecutors and Lawyers. The Expert also refers to Opinions by the Venice Commission which stress the importance of clarity on the role of the Prosecutor. The principle of “equality of arms” is an essential feature of a fair trial and is an expression of the balance that must exist between the prosecution and the defence. It is of utmost importance that this principle is protected³; in trials the prosecutor should only act as one party to the process. For instance, decisions on the reopening of proceedings should be taken by the court.

Preventing corruption and ensuring integrity of the judiciary

Building a competent, un-corrupt and independent judiciary is a huge challenge in any system. However, it is an indispensable human right to have access to independent and impartial tribunals.

² International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights.

³ For more on the right of equality of arm, please see United Nations Office of the High Commissioner for Human Rights (OHCHR), *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers*, page 258 (<http://www.ohchr.org/Documents/Publications/training9Titleen.pdf>).

The judge has a crucial role in protecting the principle of “equality of arms” as an intrinsic part of the right to a fair hearing. The Expert heard complaints that the defence in general was disadvantaged in comparison to the prosecution. Another type of complaints was that individuals had been brought to court on fabricated charges. The trust in the impartiality and competence of the judiciary appeared not to be high and suspicions of corruption widely spread.

A number of preventive steps can be taken to enhance the trust in the justice system. The procedures for the recruitment of judges should be impartial; they should reward professional skills and high moral standards. Any suspicion of corrupt behaviour and other breaches of trust should be investigated and misbehaviour punished through a credible and competent disciplinary mechanism and, where warranted, penal sanctions.

The prestige of judges in society will of course depend largely on their competence, their knowledge of the laws and the case law, as well as on familiarity with problems in society. Update training would be one way of meeting this need.

Imprisonment

The Expert visited different penitentiary institutions and concluded that the system should be thoroughly reformed. A first step would be to ensure that the number of detainees be further reduced.

International legal standards for the protection of persons deprived of their liberty should be observed, as well as basic principles governing detention and imprisonment.⁴ The presumption of innocence is a crucial principle of justice; a suspect should be regarded as innocent until guilt is proven through proper procedures. Detention on remand should only be imposed as a last resort when necessary in order to ensure proper investigations or to prevent the suspect from absconding if there is a concrete and obvious risk for this. The law allows for release on bail and this has been tried in a few cases – this approach is positive and ought to be further developed.

The Expert was told that the changes in the Criminal Code will result in further releases. Further steps should be taken to ensure that the punishments are reasonable in relation to the seriousness of the crime. For instance, the sentences are too severe in cases of possession and consumption of light narcotic substances, in particular cannabis. It is the trade and sale of the more serious drugs which constitute a dangerous threat to society.

The pledge to develop non-custodial punishments would, if implemented, be a positive step.

The Expert visited an institution with convicted minors. He recommends a review of the juvenile justice system with a view to ensure the rights of the child deprived of liberty, in the spirit of the UN Convention on the Rights of the Child. There are specific international law obligations to address juvenile justice as a distinct matter.⁵ This would inevitably result in a policy which used incarceration only as the very last resort and instead the emphasis would be put on social rehabilitation. Under international human rights law, the overall aim of the juvenile justice system must be to promote the child’s rehabilitation and social reintegration.

Situation in prisons

Today’s high recidivism rate is a sign that present incarceration policy is counter-productive. The conditions in the penitentiary institutions must be improved in accordance with international legal standards for the protection of persons deprived of their liberty and basic principles governing detention and imprisonment.⁶ Inhuman disciplinary measures should be abolished and prison staff recruited and trained to cope with the daily problems with dignity and fairness.

Health care in prisons must also be improved and the competence of the Transnistrian Ministry of Health be better utilized in such efforts. The tuberculosis (TB) and HIV infection situation is of grave concern.

A more systematic approach should be developed to prepare inmates for a life in society after release. This, in turn, speaks for another approach to the right of the prisoners to keep in regular contact with family members while in custody.

Also, social support for rehabilitation, including employment, for those released is not well developed, while on the other hand the security control is intrusive.

⁴ Ibid, page 315.

⁵ Ibid, page 397.

⁶ Ibid, page 315.

One prosecutor has been assigned to monitor the situation in prisons and remand facilities. During his visits he is to collect oral or written complaints from inmates. Also, the Ombudsman is conducting an inspection programme. The impression of the Expert is that these monitoring functions need to be strengthened and complaints from inmates be taken more seriously than hitherto.

Housing, property and land rights

The transition from planned state economy to the new market approach with privatizations was not accompanied in all cases by legal developments which protected the interest of vulnerable individuals. Some corrupt practices caused deeper problems in this context.

The Expert was informed about mistakes when shares in the collective farms were allocated, and previous farm workers lost certain rights to the use of land plots of which they previously had forms of legally-recognized possession. In another case, factory workers who had earlier been provided housing through the state company had seen this arrangement undermined after privatization and they lost their housing rights.

Court procedures had not led to satisfactory solutions of these cases. The political leadership told the Expert that it was trying to protect the interests of those victimized through executive decisions. It is important that this gives result.

Health care

The challenges in the health sector are huge. They include the education of health personnel at all levels and the upgrading of equipment and information technology. Further exchanges with experiences and systems abroad would be helpful in such efforts. The fact that positive cooperation has been established with colleagues on the right bank and with international agencies -- including WHO, UNICEF and UNFPA -- is positive.

The health of children must be a priority, including further efforts to reduce the infant mortality rate. Plans to improve perinatal care and to ensure full access to immunization exist should be pursued. The HIV pandemic requires information measures to prevent further infections; adequate medication to those who are HIV positive; access to anonymous and voluntary blood testing as well as awareness campaigns to prevent discriminatory attitudes.

The capacity to rapidly diagnose TB infection is crucial in the fight against this epidemic. Efforts are needed to avoid any case of interrupted treatment. Those with multi-drug resistant (MDR) infection must have access to the necessary medicine, and treatment methods must be appropriate, competently applied, and human rights-based.

The Expert has also raised the issue of coercive medical treatment and suggests a review of the current practices in accordance with international standards.

Domestic violence

As in most societies, domestic violence on the left bank is a partly hidden, but very serious problem. To combat effectively such violations there is a need to develop a comprehensive programme based on a zero tolerance approach to all forms of inter-personal violence. This should be reflected in a special law.

In order to detect signs of such violence at an early stage, there should be a clear policy that social workers, health personnel, teachers and other professionals in official position would be required to report suspicions of physical abuse and also psychological or emotional harassment.

Police officers should be trained in responding to cases of domestic violence. The Expert received information that the police have refused to receive complaints with the argument that such testimonies are usually withdrawn later on.

The system of phone helplines is useful and needs to be further developed as well as the availability of shelters for victims of domestic violence, in particular women. These should have capacity to receive a victim on short notice and be equipped to receive children of the victim as well.

The campaign against domestic violence should address all physical abuse in families -- including against children and old people -- as well as in various institutions, such as schools and homes for the elderly.

Trafficking

Trafficking of human beings is a grave problem; measures against this form of slavery have to be given high priority. To broaden the public awareness is one step. A clear analysis of the root causes and contributing factors must be part of renewed efforts to counter trafficking.

The role of the Interdepartmental Committee set up in Transnistria should be reviewed and its mandate be given further strength. The work already initiated to reform the enforcement structure for counter-trafficking can benefit further from international exchange, including with authorities in Chisinau, as well as with others in the neighbourhood.

Essential contributions have already been given by international structures, not least by IOM, which has developed a constructive work relation with a group of engaged NGOs.

Rights of children with disabilities

A separate ministry for social affairs will be set up in 2013. One of its major tasks will relate to the protection of vulnerable people, dysfunctional families, orphans and persons with disabilities.

One key focus should be the right of the child to a *family environment* whenever possible. This requires support to families in crisis or at risk. Social workers, teachers and others have in these situations an important role both to identify problems and to assist in their solutions.

In order to protect the right of children with disabilities to live with a family, there will be in a need encourage and advise parents on how to cope. The possibility of day care for such children would in some such cases make life easier for the parents, especially in one-parent families.

For children with disabilities, there should be a professional assessment on the cognitive and locomotor capacity and potential. This would be the basis for individual treatment plans to set and monitor progress towards motor and intellectual development.

Steps should be taken to make it possible for children with disabilities to attend ordinary schools as far as possible.

Some of the children in the institutions come from traumatizing conditions as their parents failed to offer a caring environment due to drug addiction, alcoholism, domestic violence or other deep social problems. This calls for a vigilant approach to preventing such social ills in order to protect the children. Unfortunately, this is a struggle which does not give quick results.

A serious plan for de-institutionalization should be worked out, including a strategy for the development of a system of foster care. It is important that it includes strict criteria for selecting, training and advising foster families in order to give protection to the children. International experience has demonstrated that such systems must be developed with caution.

Rights of adult persons with disabilities

It is essential to make the public aware of the need to respect the rights of persons with disabilities. New houses, and especially official buildings, should be constructed so that wheelchairs can have access. Persons with sight and hearing difficulties should have access to necessary equipment to overcome such difficulties. Other steps as well should be taken to make it possible for everyone to communicate and benefit from media, education and leisure activities.

The Expert visited two large neuro-psychiatric institutions, one for women and boys, and a second for men. Though the material conditions were broadly satisfactory and the staff appeared to care for the inmates, the Expert had to conclude that the time has come to review the whole approach to such institutions. He also visited the psychiatric hospital at Vhvatintsi. The benchmark framework for a new policy should be the UN Convention on the Rights of Persons with Disabilities (CRPD) with its important principles and standards. A plan for closing the old-style institutions should be developed. Community living should be encouraged, either with families or in small group housing with some assistance from, preferably, local authorities and civil society groups. Instead of totally depriving persons of their legal capacity, an approach should be developed in which caring, impartial assistance is provided in line with the CRPD Convention.

For persons with disabilities there seems to be a need for some kind of general advocate or ombudsman with resources and competence to do independent outreach work in order to listen to complaints which otherwise

would not be heard or even formulated. This may be a function for a strengthened office of the Ombudsman or given to a special new mechanism.

Older people

Many older people live in poverty, though there are special homes for older people in each administrative district and special consideration is given to the veterans.

Because a number of middle-aged persons have gone to other countries as migrant workers, older people have been left to care for grandchildren. Some of these elderly people have difficulties to cope with this situation due to a lack of physical and economic resources.

Minorities

The focus on the balance between the three major population groups may overshadow the need to protect ethnic, linguistic and religious minorities and their interests. The establishment of a representative commission with members from the minorities themselves might give them an effective channel to key decision makers and in the public discussion. A comprehensive anti-discrimination law would also be advisable, in order to provide possibilities for redress when cases of discrimination occur.

Right to education

Two issues related to education have been discussed in the political 5+2 process: on nostrification of school certificates and university diplomas and on the situation for the Moldovan Latin script schools. Though not part of these talks, the Expert did discuss these issues in Transnistria. He hopes that solutions will be sought and found *in the interest of the rights of those directly concerned, the pupils and the students*. Individuals should as far as possible be protected from the adverse consequences of the current political situation.

On the Latin script schools, he has recommended the Transnistrian authorities to resolve the issues about the rents of the premises (as already agreed) and to find solutions on the other outstanding property problems, including the return of the two schools which were previously moved. The issue of “licensing” the schools could also be resolved -- and in a manner which would not undermine their independence. The key consideration must be to respect the best interests of the children concerned.

Freedom of religion and belief

The Transnistrian Constitution states that Transnistria is a secular state and that everybody has the right to profess any religion -- or not profess any. It seems that the spirit of this principle has been lost and that some groups other than the Orthodox church are seen as “sects”.

The procedures for registration of religious organizations need to be reviewed. Registration – if at all deemed necessary – should be swift, not unduly bureaucratic, and not discriminatory. The required probation period should be abolished and there should be no distinction between those registered and those not as concerns their possibility to exercise their basic human rights.

The law on military conscription should be amended to allow for a civil alternative for those whose conscience or beliefs prevent them from military activities.

Creating a culture of human rights and accountability

The Transnistrian Constitution prescribes a system of balance between the executive, the legislative and the judicial powers. Checks and balances of different modes are important for creating a culture of human rights.

One aspect is to ensure the possibility for everyone in society to complain and criticize. The role of an independent and well-resourced Ombudsman is critical in this context.

There should in all public institutions, not only in prisons, be a system for conveying complaints (also in confidential form) and for them to be given due consideration. It should be safe to complain – whistle blowers and witnesses should have protection and encouragement.

The phenomena of corruption and impunity must be combated as antithetical to human rights. The Expert met people who complained to him about corrupt practices, including in the law enforcement structures. Bribery in such structures undermines the principle of equality before the law.

The principle of accountability is another pillar in a rights-based society. People in positions of power should not be shielded from scrutiny. Crimes, whoever has committed them, should be brought to the court system for punishment. Other acts of misbehaviour, bureaucratic mistakes or breaches of trust should also be addressed for appropriate correction.

Measures for systematic implementation

Planning of the reforms for human rights is necessary. The Expert recommends the *de facto* authorities to initiate a baseline study to identify the key problems as a first step to producing a comprehensive action plan for human rights implementation. The process should be transparent and benefit from a dialogue with civil society groups. During implementation such plans for human rights should be reviewed on a regular basis -- progress noticed and obstacles addressed.

In order to develop an administration which promotes strategic human rights reforms, it is also necessary to have a system of collecting, organizing and disseminating relevant and reliable data, done according to the relevant international guidance. A full-scale population census, a household budget survey and introduction of systematic gender and age-disaggregated statistics ought to be prepared. The Expert recommends international cooperation in this area.

The implementation of human rights reforms should be monitored; progress noted and obstacles defined and addressed. An open dialogue with civil society organizations is essential.

Broad awareness among the population of their rights is necessary for progress, which calls for human rights education in schools, community organizations and the media.

INTRODUCTION

Background

United Nations High Commissioner for Human Rights Navanethem Pillay visited the Republic of Moldova in November 2011. During her meetings, the Government of the Republic of Moldova, the *de facto* authorities in Transnistria and representatives of the civil society emphasized the need for further particular attention to the human rights situation in Transnistria. At the end of her mission, High Commissioner Pillay stated:

“As part of my visit to the Republic of Moldova, yesterday I visited the Transnistrian region and had meetings with the de facto authorities. We discussed a broad range of human rights issues. These included matters that were raised following visits by three independent UN experts, namely the Special Rapporteur on Torture, the Special Rapporteur on Violence Against Women and – most recently – the Special Rapporteur on Freedom of Religion or Belief. ...

I have reiterated my view – expressed in my opening statement to the last session of the Human Rights Council on 12 September – that more attention needs to be paid to the situation of human rights in areas which, for various reasons, are controlled by de facto authorities. This means that there should not be human rights protection gaps, and that my general mandate under United Nations General Assembly Resolution 48/141 is about protection of all human rights for all. I therefore need to have access to and work with all those who are in effective control of a territory in order to reach out to people in need, because protecting human rights – especially for the most vulnerable – is my priority.

I would like to point out that my office’s work with de facto authorities on human rights issues does not amount to their legitimisation. My presence in Tiraspol reiterates the responsibility, if not the obligation, of the de facto authorities to respect human rights and the need for them to cooperate with all relevant international and regional human rights mechanisms.”

To follow up on these commitments -- and as a result of interest and requests by both the Government of the Republic of Moldova and the *de facto* authorities in Transnistria -- the United Nations engaged Thomas Hammarberg as Senior Expert on Human Rights in Transnistria in May 2012.⁷ The views expressed in this report are solely those of the author and do not necessarily reflect the positions of any United Nations agency or body.

Methodology

The Expert has benefited from assistance from the UN Human Rights Adviser, OHCHR, and the UN Resident Coordinator in Moldova.

He has been guided by the agreed international human rights standards and the principle that *every* human being must be able to enjoy these rights, irrespective of where they live.

He has not taken a position on the future political or diplomatic status of Transnistria and his efforts have been separate from the talks in the 5+2 process. His focus was exclusively on the situation in Transnistria. It was not part of his task to make comparisons with situations on the right bank or in the wider neighbourhood.

The Expert established a dialogue with the relevant office holders in Transnistria.

⁷ Thomas Hammarberg was Council of Europe Commissioner for Human Rights (2006-2012); Secretary General of the Olof Palme International Center (2002-2005); Ambassador of the Swedish Government on Humanitarian Affairs (1994-2002); Regional Adviser for Europe, Central Asia and the Caucasus for the UN High Commissioner for Human Rights (2001-2003); Special Representative for Human Rights in Cambodia (1996-2000); Member of the UN Committee on the Rights of the child (1991-1996); Secretary General of Save the Children Sweden (1986-1992); and Secretary General of Amnesty International (1980-1986).

He had meetings with representatives of civil society groups and also met individuals who had raised issues about human rights problems related to themselves, family members or others. Together with the UN Human Rights Adviser he has visited prisons; other places of detention; collective homes for orphans and children with disabilities; institutions for adults with mental health problems or physical disabilities. Meetings have been held with representatives of minorities; schools in various languages have been visited. A more detailed account on the various visits and meetings are provided in the Appendix to the report.

The Expert endeavoured to visit as many different types of institutions as possible, as well as to consult with the broadest possible range of interested groups and parties. He believes he has reached an understanding of the broader aspects of the overall situation, as well as of many of the particularities of human rights issues in Transnistria. Nevertheless, the present document should not be regarded as the final word on all human rights issues in Transnistria. The issues are complex, and a sustained and long-term effort is needed to understand, address and correct human rights issues in Transnistria, as in all societies.

He informed representatives of the Government of the Republic of Moldova about his efforts and had meetings with several of the ambassadors stationed in Chisinau. Close cooperation was established with the international organizations *in situ*.

Apart from the UN Resident Coordinator, Human Rights Adviser and OHCHR, the Expert was generously helped by advice from other UN agencies such as UNDP, UNICEF, WHO and UNAIDS as well as IOM. The European Union, the Council of Europe and the OSCE, with a sub-office in Tiraspol, have all made their expertise available for this work.

LEGISLATION

Constitution

The Transnistrian Constitution was adopted through a referendum in 1995 and amended in 2000. It includes an extensive list of democratic provisions and specific human rights to be protected.

The Constitution says that the state power is divided between the legislative, executive and judicial organs – each independent of each other. Local self-government is recognized and be ensured. Relations between social, national and other communities are to be regulated on the basis of equality and respect of their rights and interests.

The Constitution states that there is no state religion and the religious associations are separated from the state and equal before the law. Official languages with equal status are Moldovan, Russian and Ukrainian.

The non-discrimination clause has this formulation (in the official English translation): “Everybody has equal rights and freedoms and is equal before the law without distinction as to sex, race, nationality, language, religion, social origin, views, personal and social status”.

Basic civil rights set out in the Transnistrian Constitution are: the right to life (though capital punishment is exceptionally allowed “until it is abolished” in response to grave crimes against life); the right to liberty and security of person; and the right to protection against torture, cruel, inhuman and degrading treatment and punishment.

Principles relating to criminal justice in the Constitution include that a detainee has the right to judicial review of the lawfulness of his detention or arrest. An accused person must be regarded as innocent until proven guilty and sentenced in procedures set by law and the verdict has come into legal force. An accused is not bound to prove his innocence. No one must testify against himself or his close relations. Evidence obtained through a violation of the law has no legal value.

Provisions on freedom of expression include freedom of thought, speech and opinion. Everyone has the right in any legal way to seek, receive and spread information. “The media is not subjected to censorship”.

Freedom of assembly is among the constitutional rights and includes the right to organize rallies, street processions, demonstrations and pickets which do not violate law and order.

Social and economic rights are also enshrined in the Constitution: the right to a decent standard of living; the right to health care; the right to social security for the elderly; the right to education; the right to property and housing; the right to enjoy a sound environment; and the right to decent work conditions.

In a formulation obviously aimed at filling possible gaps, the Constitution states that the list of rights and freedoms in the text should not be interpreted to as a negation or derogation of other universally recognized rights and freedoms.

In other words, the constitutional text is extensive in its listing of civil, political, economic, social and cultural rights. Also, the formulations are in large parts consistent with international human rights treaties. However, there are some inconsistencies and vague language – in particular, in relation to limitations of a few specific rights -- which might be interpreted as being in contradiction to international standards.

The role and impact of the constitutional human rights provisions in lawmaking and practice – whether they are respected *in reality* - will be discussed later in this report.

Relation to international treaties

As Transnistria is not internationally recognized as a state, it cannot be party to international human rights treaties. This, however, does not prevent the *de facto* authorities to apply standards which are consistent with the international norms.

The expert was informed that a unilateral recognition had indeed been decided upon in relation to some of the UN and Council of Europe conventions through decisions in the Supreme Soviet. The treaties mentioned in this context were the UN Convention on the Prevention and Punishment of the Crime of Genocide, the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the UN Convention on the Rights of the Child.

The logic of this situation would be that the *de facto* authorities regard these treaties as part of their legislation. However, it is the impression of the Expert that the norms of these conventions play only a limited role in the judicial system. Nor do they seem to have inspired the law making process.

Other laws of particular human rights relevance

There have been some revisions of both the Criminal Code and the Code of Criminal Procedures with the result that the sentences have been reduced for a number of crimes and that alternatives to imprisonment have been opened.

In a talk with the Expert, the Transnistrian President said that the intention was to make a more clear distinction between grave and less serious crimes. Crimes to be heavily punished were murder, trafficking of human beings, rape and drug trafficking. On the other hand, minor crimes would be dealt with more leniently, including through non-custodial sanctions.

Some basic freedoms are regulated in specific legislation, apart from being listed in the Constitution. There is a Law on Public Associations, a Law on Freedom of Conscience and Religious Associations as well as a Law on Assemblies.

Again, many of the formulations in these legal acts are consistent with international norms. However, there are also some inconsistencies which ought to be addressed. One example is that on a religious group, even when initially registered, has to wait for ten years before it can act openly and communicate publicly.

Generally, these and other laws are not easy to access or to understand. The database on legal texts is still not well developed and their language not reader-friendly.

Death penalty

Capital punishment is abolished *de facto* in Transnistria through an executive decree issued in 1999. In the preamble of the decree document there were references to recommendations of the Council of Europe Parliamentary Assembly; to the principles of humanism and the inalienable human right to life; and to article 19 of the Constitution which mentions this punishment as a temporary and exclusive measure.

However, the possibility of death penalty is still mentioned in article 58 of the Criminal Code as a punishment for grave offences against life. It stipulates that women, minors and men above the age of 65 cannot be punished by execution. Furthermore, the article states that if pardon is granted the sentence might be changed into a life sentence or deprivation of freedom for 25 years.

In practice, however, the moratorium decree is overriding the Criminal Code and the most severe sanction today is imprisonment for life. The expert received detailed information on two cases of prisoners who had been sentenced to death before the decree was enacted and now were imprisoned for life.

Comments

The Constitution appears to signal an intent to fully respect the international human rights treaties. The unilateral declaration accepting some of these agreements seems to underline this ambition. This requires serious follow-through.

The Expert recommends a review of the overall legislation in order to address points in the laws which are not consistent with international law, using as a benchmark relevant UN conventions, the European Convention on Human Rights and the pertaining jurisprudence provided by the human rights Treaty Bodies, United Nations Special Procedures and the European Court of Human Rights. The moratorium on the death penalty should be followed through with its formal abolition.

A programme should be developed to ensure that the legislation is accessible to ordinary people.

LAW ENFORCEMENT

Law enforcement structures

The Transnistrian Ministry of Interior is in charge of the ordinary police forces. The police are responsible for the protection and promotion of law and order on the basic level. They are to assist the new Investigation Committee and the Prosecutor in their work to ensure the implementation of criminal and civil law. Among other tasks, they are to monitor the behaviour of persons released from prison for some time.

The security services (the KGB) have traditionally a strong position in the Transnistrian society. They have an independent status and are subordinated directly to the President, though the Prosecutor has, according to the law, a certain oversight authority in relation to these services. They also report to the Supreme Soviet on occasion.

The Expert had a meeting with the Transnistrian KGB leadership in November. He was told that the creation of the Investigation Committee had meant that the services were no longer involved in criminal investigation. The Committee had taken over five members from the KGB as investigators. Otherwise the situation was unchanged for the security services.

KGB officers can detain someone temporarily for up to seven hours, but not decide on formal arrest. For longer detention the KGB should bring the suspect to the police.

The Expert was told that the services are responsible for some specific tasks on instruction from the President, such as border control, illegal migration, smuggling and trafficking of human beings. The Transnistrian *de facto* border authorities are directed by the KGB. The security services are also dealing with large scale fraud and corruption.

The Expert was told by representatives of civil society groups that they had been under KGB surveillance but that this had become less intrusive and visible in recent times.

Torture and abuse committed by law enforcement officers

The Transnistrian Constitution provides that no one can be “subject to torture, cruel, inhuman and degrading treatment and punishment”. The Criminal Code does not present any definition of torture but criminalizes “torment” which, combined with torture, would be punished with seven years of imprisonment. The Code of Criminal Procedure upholds the principle that proof obtained by violent means must not be admissible. This principle that a statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings is also recognised by the United Nations Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment visited Transnistria in July 2008 as part of a visit to the Republic of Moldova. On treatment of persons in police custody he reported later that he had received “consistent and credible allegations of ill-treatment and torture, mainly during interrogation. Torture methods include severe beatings, with fists and rubber truncheons, including on soles and kidneys, electro-shocks, needles inserted under their fingernails”.

The Expert received some similar credible statements and was informed by the Transnistrian Prosecutor at the time that procedures had been initiated against ten police officers for having used force during interrogation. However, there were also officers who had committed such crimes in the past who were still on duty.

Routine visit to a police headquarters

The Expert visited the police headquarters in Bender, including the lock-up cells at this station. There were ten inmates in these cells at the time. The trend during 2012, he was told, was that the number of persons arrested in this district had gone down to one third compared with the previous year. The most common reasons for arrest were violence against persons or property and drug offences.

There was no daylight in the cells and little ventilation. Even if individuals are supposed to stay in such cells only for a maximum of time of 72 hours – and exceptionally for up to ten days, if so decided by the court -- the conditions must be humane. What constitutes humane treatment is specified through international standards such as the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Moreover, any treatment of persons awaiting trial should be based on the principle that they are to be regarded as innocent until guilt is proven in court.

Comments

The key political actors appeared to recognize that the matters raised by the UN Special Rapporteur on Torture were important. Some positive steps have also evidently been taken to improve the situation. For instance, the Expert was informed that video cameras were now installed in interrogation rooms.

However, the Expert was told by persons who had been apprehended by the police as well as by former and present inmates in penitentiary institutions that force had been used during interrogations. Indeed, it became clear to the Expert that such methods had in fact been practiced even in recent times.

One of the reasons mentioned to the Expert for the establishment of a separate Investigation Committee was to professionalize police work. One aspect of this must be to put a definitive end to any torture and ill-treatment of persons arrested.

This will require recruitment procedures which exclude immature applicants; a code of ethical conduct which is given highest priority in professional training for police officers; continued on-the-job training on how to handle tense situations; and a management with sensitivity to the needs of the society at large.

The political and police authorities must promote an approach of zero tolerance with regard to torture and other violent methods. The very term “torture” should be defined in law, as should the related international term “degrading treatment”.

When a case of torture has been exposed, it is particularly crucial that the culprits are duly punished, including through prompt removal from any police service.

There has to be an effective monitoring of arrest cells through an institution which is ready and equipped to receive complaints. This, in turn, will necessitate a credible system of witness protection. A visit by the UN Sub Committee on the Prevention of Torture (SPT) and/or by the Council of Europe Committee for the Prevention of Torture (CPT) would be helpful.

INVESTIGATION AND PROSECUTION

Role of the Investigation Committee and the Prosecutor

A process of reorganizing the office of the General Prosecutor started in 2012. An Investigation Committee was created on the basis of a large part of the office as well as of units from law enforcement, including the security service, KGB, and the Customs authority.

The Law on the General Prosecutor, the Criminal Code and the Code of Criminal Procedure were amended and a new law on an Investigation Committee had been adopted. However, at the time of the visits by the Expert there had not been a change of the Constitution in which the present articles 91-92 describe the role of the Prosecutor as wider than now foreseen.

The main purpose of the change appears to have been to improve the effectiveness and integrity of the criminal investigations and at the same time limit the previously very broad mandate and authority of the General Prosecutor.

The Expert was told that the new order means that the Investigation Committee will bring charges and take part in court proceedings in *criminal cases* while the Prosecutor will act in that role in *civil* cases, including housing and labour rights issues, but also in criminal matters involving minors.

Though the Expert discussed this change with key decision makers, it did not become clear exactly how it would affect the justice system and how the oversight function would be exercised. It was stated that this was a process during which there may well be some adjustments made on the basis of initial experiences.

The articles in the Constitution about the role of the Prosecutor are based on the concept of the powerful “*prokuratura*” in the former Soviet Union – an institution with wide authority to oversee the functioning of practically all other institutions in society. The Constitution says that the General Prosecutor “shall supervise the precise and uniform compliance of judicial organs, Ministries and Departments, local organs of power, organs of self-government, enterprises, organizations and institutions, public associations, officials and citizens with the Constitution and laws.”

According to the Constitution, the office holder should be independent from the organs of state power, but accountable to the Supreme Soviet and responsible to the President. The appointment will be based on a nomination by the President and final election by the Supreme Soviet.

The authority of this institution is spelled out in the special law on the office of the Prosecutor which states, *inter alia*, that its requests to institutions which the office supervises are binding and shall be subject of unconditional execution. This includes the obligation to provide all forms of information and documents which the Prosecutor might request. At the same time, the Prosecutor shall not be required to provide any explanation about the substantive issues taken up or make the files available for inspection.

One function which was said to remain with the General Prosecutor after the reorganization was to receive and act upon complaints from members of the public, including on abuse by law enforcement officers. As this is also a function of the Ombudsman, the two institutions were said to coordinate their work and share information in order to avoid overlap or contradictions in the course of their work.

Comments

OHCHR, together with the International Bar Association, has stressed the need for strong, independent and impartial prosecutorial authorities for ensuring human rights standards in the administration of justice and developed trainings and reference material in this regard. Material of reference contains also specific guidelines on the role of prosecutors developed and adopted by the United Nations.⁸

In addition, the European Commission for Democracy through Law (Venice Commission) – linked to the Council of Europe -- has discussed in general terms the role of the prosecutor in its work on promoting

⁸ United Nations High Commissioner for Human Rights (OHCHR) Professional Training Series N.9, *Human Rights in the Administration of Justice: A Manual on Human Rights*.

independence of the judicial system.⁹ The Venice Commission recognized that the systems are different in European countries, though there are certain principles which should be respected everywhere.

The Venice Commission stated that there is a danger in the *prokuratura*-type systems that an over-powerful prosecution service becomes a fourth authority (in addition to the executive, the legislative and the judicial) without accountability. It presented arguments for confining prosecution services to the powers of *criminal prosecution*.

Also, within the criminal justice field there is a need to clarify that the Prosecutor should not be able to overrule or supervise decisions by judges. In the interest of the principle of “equality of arms” the prosecutor can only act as one party to the process. Decisions on the reopening of proceedings should be taken by the court, while the prosecutor has no more power to appeal a court ruling than any other litigant. The ultimate say rests with the court.

In several European states the public prosecutor has some functions other than those of criminal prosecution and defending public interest in the criminal-justice system. The Venice Commission has held that such powers are legitimate only if certain criteria are observed, among them the principles of separation of powers, impartiality, subsidiarity and exceptionality.

Other functions should according to the Council of Europe Parliamentary Assembly¹⁰ be discharged by other bodies: which should be separate, appropriately located and effective.

In its Opinion on a draft law on the prosecution service in the Republic of Moldova,¹¹ the Venice Commission commented upon the power of the prosecutor to “initiate civil proceedings to secure the protection of the rights, freedoms and interests of juveniles, elderly or disabled persons, or persons who due to their state of health are unable to take proceedings”.

The Venice Commission found that “[g]iven that the main task of the prosecutor is to represent the interest of the state and general interest, it may be questioned whether the prosecutor is necessarily the most appropriate person to undertake this function”.

In other Opinions on the same issue, the Venice Commission mentions the role of an Ombudsman as a suitable alternative in such cases. It has also referred to the Finnish model of a Chancellor of Justice.

The new, more limited, role of the Prosecutor in Transnistria does raise the question of the role of independent offices like the one of the Ombudsman. This is a question of checks and balances within the system but also of resources to develop an effective, independent defence of human rights.

JUDICIAL SYSTEM

Judiciary

The changes of the role of the Prosecutor and the creation of the Investigation Committee would have an impact on the functioning of the judiciary as well. If correctly implemented, it would be clear that the Prosecutor would not have an oversight or supervisory role in relation to the functioning of the courts.

In his exchange with the head of the Supreme Court, the Expert noted an emphasis on the need to protect the independence of the judiciary. This in turn will require a certain level of competence among the office-holders in the system.

There are 54 judges at the first instance courts. The seven regional or city courts deal with all types of cases: criminal, civil and administrative. They hear more than 50 000 cases per year, circa 20 000 of which are civil.

In civil matters, primarily economic disputes, the highest judicial body is the arbitration court. On other issues, the last instance is the Supreme Court. Only a few of the verdicts are appealed and taken up by the Supreme Court – and sentences are rarely overturned.

⁹ CDL-AD(2010-040)

¹⁰ Recommendation 1604(2003)

¹¹ CDL-AD(2008)019

The Constitutional Court has the same level hierarchically as the Supreme Court. Its role is to verify the compatibility of legal interpretations with the Constitution.

The special role of the Supreme Court is to oversee the activities of the other judicial courts. It can take the initiative to refer a case to a collegium of judges in order to ensure consistency and conformity of sentencing. It also has the possibility to hear cases as a court of first instance. Its decisions are final and cannot be appealed.

There is a council of senior judges responsible to ensure competence and proper performance within the judiciary. It can dismiss judges for lack of professionalism or misbehaviour; that reportedly happened in three cases during the past three years. The council also selects new judges when there are vacancies, whereupon the President signs the appointment certificate.

The Expert was confronted with many and fairly consistent complaints against the functioning of the justice system. One was that the accusations in a number of cases were “fabricated”; that procedures were used to intimidate persons; that the defence lawyers were passive; that people with money or contacts had an upper-hand compared to ordinary people; and that witnesses changed their statements because of threats or bribery -- and that such tendencies sabotaged the proceedings.

It is very difficult for an outsider to assess the basis for such accusations but some factors made the Expert reluctant to ignore them. They were strikingly frequent and even alluded to by a few high level actors in the system.

Juvenile justice

There is no separate justice system related to minors in Transnistria; no specialized juvenile courts or judges, prosecutors, lawyers and police officers specially assigned to juvenile cases. Children in conflict with the law are faced with the same procedures as adults and therefore the process can be lengthy.

When a child who is suspected of having committed a crime is interviewed he/she should, according to the Criminal Code, be assigned a defence lawyer free-of-charge. In addition, for a child below the age of 16 the presence of a teacher during the interview is mandatory. A child suspect between 16 and 18 years might also be interviewed in the presence of a teacher.

Petty crimes are handled by the so-called “Commission for Protection of Minors”.

There is no agency with the task to coordinate efforts to prevent and act upon juvenile crime. The responsibility today is shared between a number of authorities: apart from law enforcement bodies, a commission for protection of minors and authorities in charge of social protection, education, child welfare, public health, employment and youth policy.

The Convention on the Rights of the Child, which the *de facto* authorities have pledged to uphold, requires that children who are suspected or accused of having committed a crime or are already proven to have done so be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others. Moreover, they should be treated in a manner taking into account the child's age and the desirability of promoting a child's reintegration and assuming a constructive role in society. Overall, under international human rights law, the aim of the juvenile justice system must be to promote the child's rehabilitation and social reintegration.

Investigations and interviews should be conducted in a manner which consider the age of the child. Parents and teachers should be able to assist the child in those situations. Under a certain age, there should be no procedures at all, the child should be seen as having no legal responsibility.

When procedures are initiated they should be absolutely fair, understandable, brief and without delay. Detention should be avoided and only be used as a measure of very last resort and for the shortest appropriate period of time.

The treatment by law enforcement bodies and the judiciary of children as witness or victims also require care. The UN Committee on the Rights of the Child has also developed useful guidelines on juvenile justice,¹² and the

¹² UN Committee on the Rights of the Child, General Comment No. 10 (2007), Children's Rights in Juvenile Justice.

UN Guidelines on Matters of Justice involving Child Victims and Witnesses addresses victim and witness matters in detail.¹³

Legal assistance

There is no general system of legal aid in Transnistria. However, someone apprehended by the police has the right to be assisted by a lawyer and this right remains throughout the judicial proceedings. If suspects cannot afford to hire a lawyer they should according to the law be offered a public lawyer drawn from a list established by the Bar Association. This right is limited to cases in the criminal procedures.

A new law on the Bar Association is forwarded to the Supreme Soviet; the proposal is to enrol private and public defenders within the same structure.

Pardons and amnesties

The pardon commission is chaired by the General Prosecutor and has 12 other members, including representatives of the Supreme Court, Supreme Soviet and the Security Services.

It meets on a monthly basis to examine applications. Cases of serious crimes such as murder and drug peddling are not considered. The Expert was told that around one fifth of the applications have been brought to the President for decision which has resulted in more than 200 pardons during 2012.

Amnesties are decided by the Supreme Soviet. A new draft law on amnesties has been introduced in the Supreme Soviet.

Comments

Building a competent, non-corrupt and independent judiciary is a huge challenge in any system. However, it is an indispensable human right to have access to independent and impartial tribunals.

The Transnistrian Constitution states that judges cannot be members of political parties or take part in political activities. It is as important that the judiciary avoids close relationships with big business or organized partisan interests.

The procedures for the recruitment of judges should be impartial and reward professional skills and high moral standards. Corrupt behaviour and other breaches of trust should be investigated and punished through a credible and competent disciplinary mechanism. A reasonable salary level will also counter temptations of accepting bribes.

The judge has a crucial role in protecting the principle of “equality of arms”. The Expert heard complaints that the defence in general was disadvantaged in comparison with the prosecution. Such perceptions undermine the credibility of the system and the sense of justice in general.

The prestige of judges in society will of course depend largely on their competence, their knowledge of the laws and the case law as well as familiarity with problems in society. Update training is one way of meeting this need.

Special training is needed for those judges involved in *juvenile justice* matters.

The United Nations adopted a set of basic principles on the Independence of the Judiciary, which were unanimously endorsed by the General Assembly in 1995. These principles, representing universally accepted views on this matter by the UN Member States, set out parameters to ensure independence and impartiality of the judges, condition of service and tenure, freedoms of expression and association and modalities for qualification, selection and trainings. OHCHR and the International Bar Association have jointly developed extensive

¹³ UN Guidelines on Matters of Justice involving Child Victims and Witnesses, ECOSOC Resolution 2005/20 of 20 July 2005, available at:

http://www.un.org/en/pseataforce/docs/guidelines_on_justice_in_matters_involving_child_victims_and.pdf

A UNICEF/UNODC Handbook on implementation of the Guidelines is available at:

http://www.unodc.org/documents/justice-and-prison-reform/hb_justice_in_matters_professionals.pdf

guidance material on human rights in the administration of justice, which might also be used for the training of legal professionals working in the Transnistrian region.¹⁴

The Expert considers that an evaluation ought to be undertaken on the present situation with regard to minors in detention, including, *inter alia*, their length of stay, their individual background as well as efforts to assist their reintegration in society.

Such survey could serve as a background to a review of the whole approach to juvenile crime. The Expert feels that there is an acute need to develop preventive programmes and alternatives to institutional punishment.

REMAND PRISONS AND PENITENTIARY INSTITUTIONS

Basic facts on the penitentiary system

The prison system is nowadays under the governance of the Transnistrian Ministry of Justice. The prosecutor and the ombudsman have authority to visit and assess conditions in these institutions. There have also been visits by parliamentarians.

There is an educational institution for juvenile convicts in Camenca; penitentiary colonies for male convicts in both Glinnoe (prison no. 1) and Tiraspol (prison no. 2); another penitentiary institution in Tiraspol (no. 3) which holds (in separate sections) male convicts; female convicts and detainees held on remand. These institutions were visited by the Expert.

The Expert was informed that there were, as of October 1, 2 858 inmates in these institutions, of whom 2 224 were convicted and 634 held on remand. This means that there are approximately 500 prisoners per every 100 000 persons, one of the highest figures in Europe.

The number had gone down during 2012 from an even higher figure as a consequence of releases through reduction of sentences and pardons granted to a considerable number of prisoners.

Furthermore, the Code of Criminal Procedure was amended in the autumn in order to reduce the number of persons kept on remand during investigations. Another amendment opened for alternatives to imprisonment, such as fines or controlled, non-penitentiary community work, for the less serious crimes.

Detention on remand

When the Expert visited the remand facility in prison no. 3 in Tiraspol, there were 344 detainees kept there. Some were under investigation before trial. Others had been charged and were defendants at court proceedings. Still others had appealed a sentence in the first instance.

None of these three categories had an unconditional right to receive visitors. The reason given was that visits might disturb the investigations. However, relatives may on request get permission from the investigator or the judge to pay a visit, though not in private.

The rule is that prolongation of the detention period can only be decided by a judge and the maximum time for the preliminary investigation is nine months in cases of minor crimes and 18 months in cases of more serious offences. However, if court proceedings have started the detention period can be extended through decision by the court without time limit – the court is supposed to decide the length on the basis of reasonableness and adequacy.

Aspects considered when deciding on detention on remand are: the seriousness of the crime being investigated; the risk of the suspect absconding or influencing the investigation; the protection of witnesses and potential victims.

¹⁴ United Nations Office of the High Commissioner for Human Rights (OHCHR) in cooperation with the International Bar Association, *Professional Training Series No. 9: Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers*, United Nations: New York and Geneva, 2003.

The Expert talked with inmates who had been kept on remand longer than 18 months. One woman who had appealed an original sentence had been detained for four years. Her two small children had been taken to a children's home and she had not been able to see them for the entire period of her detention.

The Expert was told that the total detention period before and during a trial could be as long as seven years.

Youth penitentiary

The Expert visited the Camenca Youth Penitentiary, a prison for minors between 14 and 18 years of age. There were 30 boys there at the time (girls are kept in the women prison in Tiraspol). The majority had been sentenced for theft while some had been convicted for more serious crimes such as murder, assault or rape. The sentences varied from six months to ten years or more.

There was no overcrowding as, in fact, the institution was planned for 120 inmates. The material conditions appeared to be reasonable. There were 85 staff employed. The Expert was told by inmates that in case they reached the age of 18 before having served their full sentence they would prefer to stay in this institution rather than being brought to a prison for adults. He was told by the Director that this was possible until the age of 21, but not longer.

Some of the inmates had appealed for pardon or reduction of their sentence. The Expert understood that such requests would only be considered if accompanied by an approval from the prison authorities.

During talks in privacy with some of the inmates, they raised some specific issues, among them that their sentences were unreasonably long and that they had not been able to pay for a competent lawyer for the trial and therefore received poor assistance in the defence.

As concerns the conditions in the institution, they complained that the time given for telephoning was only 15 minutes once every month. Visits were allowed once a month (six times for 2-3 hours and six times for 24 hours), but some of the boys did not receive any visits at all and felt abandoned. Some of them made positive remarks about the fact that they got vocational training and received some payment for their work.

One specific problem which became obvious during the discussions was that a few of the inmates had been identified by the others as homosexuals and therefore socially isolated. The term "untouchable" was used. The management of the institution appeared to be aware that these boys were at risk. This situation is probably only one of a number in which homosexuals – as well as bisexual and transgender persons – may be in a difficult position.

Penitentiary facilities in Tiraspol and Glinnoe

The Expert visited the colony in Tiraspol (prison no. 2) in May and the one in Glinnoe (prison no. 1) in September. The former had at the time 1 187 inmates, of whom 170 were under strict special regime. The average sentence was 13 years, the Expert was told. Terms of 22-25 years are being served for murder, repeat offences and trafficking crimes.

In Glinnoe, the Expert was told that there were 693 convicted prisoners; the number had gone down as a consequence of the recent revision of the Criminal Code. The Expert was told that the average sentence was 5 years though many prisoners had sentences of between 10 and 15 years.

Scrutiny of punishments in individual cases indicated that these are in many cases very severe and overly-long. For example, during his missions, the Expert met with a Romani woman serving a 12-year sentence in the strict regime in Tiraspol Penitentiary 3 (women's prison) for acts related to fortune-telling. This sentence was later reduced as a result of a pardon, but remains very long.

As a related matter, family situation and social impact does not appear to be taken sufficiently into account in sentencing. Thus, in the case noted above, the 12-year sentence was ordered despite the fact that the woman concerned was the primary breadwinner in the family. She has not been released from custody even after her mother died, leaving her two children without any family care.

There are several sections in the Glinnoe institution: one for men convicted to life imprisonment and other very severe punishments and whom are kept under special strict regime; another for women also convicted for serious crimes; one for former law enforcement officers also under strict regime; one for "execution of sentences" of inmates with lighter sentences and placed in large dormitories; as well as one for detainees on remand.

In Glinnoe, there is also a special section for alcoholics which is connected to the institution for the execution of sentences.

The possibility of visits by relatives was limited. In Tiraspol no. 2, the basic rule was to allow visits four times a year, two short and two longer. Phone calls were allowed for 15 minutes once a month -- with supervision except for discussions with the lawyer.

Both visits and phone calls could be reduced as a method of disciplinary sanction. Such measures were taken in cases of infringements such as possessing alcohol or having a mobile telephone. Disciplinary measures could also include solitary confinement of up to 15 days.

The atmosphere and material conditions did not appear conducive for reintegration in society. The strict regime is very severe. The Expert was told about continued isolation of those sentenced to life imprisonment, an issue which was raised by the UN Special Rapporteur on Torture in 2009 as an example of cruel, inhuman and degrading treatment.

Harassment against individual prisoners by others is another aspect to be given attention. The prison administration has a duty to provide protection against inter-prisoner violence.

Among the inmates in prison no. 2 with whom the Expert talked was one who had asked to be put in a separate isolator unit to be shielded against abuse by other prisoners. He showed signs of being traumatized and had appealed for pardon.

One issue raised by several inmates in Glinnoe related to compensation for the work they did for the running of the institution, including repairing buildings and infrastructure. The complaint was that the rules for financial reward were not followed, and that most of the pay was deducted to cover their food and other amenities.

It was said that the material for some construction work had in fact been provided from outside by relatives to the prisoners – with the understanding that this would serve as an argument for early release. There is basically no programme for rehabilitation and preparing the prisoner for the future after release. The emphasis is on control. Former inmates have to report to the police within three days after release. Their records are provided to the court and their freedom of movement is reduced for certain period during which they may be subject to home visits, even at night-time. During this period, they can only travel after special permission from the police. Infringements of these rules are punished.

Health situation in prisons

Health service in the penitentiary institutions is also under the authority of the Transnistrian Ministry of Justice; doctors and nurses there are seen as part of the prison staff. The resources are limited and the Expert found the health situation, in particular in the Glinnoe prison, to be alarming and the care services substandard. There is limited communication with the civilian health system which results in low coverage with testing and treatment.

He was informed that three inmates had died from tuberculosis (TB) while in prison no. 1 and that there were now 24 others infected. They were kept isolated from other prisoners but not separated from one another.

In prison no. 2 the Expert was informed that there were 30 inmates with “open” tuberculosis. They were kept four-six in special rooms and there were other such rooms for persons with “latent” TB. The Expert was told that those with multi-drug resistant (MDR) infection were kept separately.

In the remand facility in prison no. 3 there were nine TB patients, five of them had MDR infection.

The TB situation in the prisons is very serious. Though steps have been taken to isolate those infected from other inmates, they are not isolated from one another, which increases the risk of further cases of MDR.

TB may spread in society through infected ex-prisoners whose treatment programme remains unfinished. The prison administration is obliged to inform the local hospital on such cases, but continued treatment remains the choice of the patient.

Medication against the more serious forms of infection is costly, but in the interest of the patient as well as society as a whole it is necessary to make that investment.

Another major health problem in the prisons is HIV/AIDS. In prison no. 2, the Expert was told that there were 40 HIV infected at the time. In the other institutions visited the figures were not as precise, though there were obviously a number of cases also there.

Harm Reduction Programmes and antiretroviral treatment (ARV) are available in prisons, including in remand facilities. Access to ARV and treatment of opportunistic infections is contingent on people disclosing their HIV status. This requires the possibility of confidential and voluntary testing for HIV, also in prisons.

Few human resources and limited capacities of existing medical personnel create barriers to enjoying access to quality medical services in penitentiaries. The standard of health care in the Glinnoe prison appeared to the Expert to be especially bad on all accounts, including on record keeping and preventive measures such as diet control. There, the complaints about the quality of the food were particularly bitter.

When authorities deprive someone of his/her liberty they also take on the responsibility for protecting this person's health. It seems obvious that the Transnistrian Ministry of Health should have a greater influence on health care in the penitentiary institutions. In fact, UNAIDS has noted that cooperation between the prison administration and the Tiraspol TB Institute and the Transnistrian Ministry of Health is limited. The consequence is substandard treatment and care while in prisons and poor referrals upon release.

Comments

The penitentiary system should be thoroughly reformed. Guidance is available from OHCHR on international legal standards for the protection of persons deprived of their liberty, as well as basic principles governing detention and imprisonment.¹⁵ This guidance might form the basis for future training activities in this area.

A first step is to ensure that the number of prisoners be reduced.

Detention on remand should only be decided as a last resort when necessary in order to ensure proper investigations or to prevent the suspect from absconding if there is a concrete and obvious risk for this. Even in such cases there is a need to secure humane conditions, including the possibility for the detainee to maintain family contacts.

The law allows for release on bail and this has been tried in a few cases – this approach ought to be further developed.

The changes to the Criminal Code will likely result in further releases. However, there ought to be further steps taken to ensure that the punishments are reasonable in relation to the seriousness of the crime. For instance, the Expert considers that the sentences are much too severe in cases of possession and consumption of light narcotic substances, in particular cannabis. It is the trade and sale of the dangerous types which constitute a danger for society. The punishment for other crimes is also evidently very disproportionate, as noted concerning the sentence handed down in the fortune-telling case summarized above.

The pledge to develop non-custodial punishments would, if implemented, be another positive step, as would other measures to ameliorate the highly punitive nature of the current system which has resulted in a high rate of recidivism.

Transnistria lacks a juvenile justice system. Incarceration should be seen as the very last resort and social rehabilitation the priority for all persons below the age of 18. There are a number of international standards, including the UN Convention on the Rights of the Child and the juvenile justice-specific UN minimum rules, standards and guidelines which could be of help when establishing a proper system. Continued cooperation with UNICEF in this area would be most helpful.

The decrease of the number of prisoners would give more room for improvement of the conditions in the penitentiary institutions. Health care must be improved and the competence of the Transnistrian Ministry of Health be better utilized in such efforts.

A more systematic approach should be developed to prepare inmates for a life in society after release. This, in turn, speaks for another approach to the right of the prisoners to keep in regular contact with family members while in custody.

Inhuman disciplinary measures should be abolished and staff be recruited and trained to cope with the daily problems with dignity and fairness. One prosecutor has been assigned to monitor the situation in prisons and remand facilities each of which must be visited at least once in every ten days. He would collect oral or written complaints from inmates. The Ombudsman is conducting a similar programme. The Expert has the impression that this function has to be strengthened and the recommendations of these monitors be taken very seriously.

¹⁵ United Nations Office of the High Commissioner for Human Rights (OHCHR), *Human Rights and Prisons: Manual on Human Rights Training for Prison Officials*, United Nations: New York and Geneva, 2005.

HOUSING, PROPERTY AND LAND RIGHTS

Rights of tenants

The right to housing is protected in the Constitution, which states that no one can be arbitrarily deprived of housing. It gives “organs of the state” responsibility to create conditions for protection of the right to housing.

In fact a major issue of housing rights emerged in connection with the privatization of an industrial company in Tiraspol, Electromash. When state-owned this company had organized apartments and dormitories where employees had the right to live under subsidized conditions, including to obtain ownership gradually through paying in instalments.

After the privatization of Electromash, the owner wanted to renovate and then put these apartments on the market for sale. In the process the housing rights of the tenants were undermined; they have been recommended to move away or to pay the market price for the renovated apartments.

The Expert saw a dormitory in bad condition – with no electricity or hot water – where eight families stayed. They had legal documents giving them the right to move into renovated apartments – but these were already sold by Electromash to other people. In the basement in even worse conditions, other families were waiting for a solution to the conflict. The Expert was told that some of those who have fought for their housing rights have been dismissed from their employment in Electromash.

Attempts to bring these problems to the court have not yielded positive results. The public administration has, however, made efforts to find solutions and have established that the apartments will be taken over by the state. What remains is to ensure that those families whose housing situation is still not resolved would be subject of prompt positive decisions.

Land rights issues

The Expert met a number of farm workers from several districts to discuss the situation of land rights after the dissolution of the collective farms. They argued that they were the proper owners of these lands, based on forms of possession established during the Soviet period; they had each provided their shares to the collective farms for use. After the collapse of the Soviet Union, they had claimed their land. Instead they had only been given permission to use the land, but had not been able to claim possession. When the associations of land users had been brought to bankruptcy, authorities had given the lease of the land plots to private agents for 99 years. These were now acting as if they were the owners.

The farm workers refer to a law from 1990 which gave members of the collective farms possession and use of the common land. Now they and their families had been offered some financial compensation, but they did not accept this as a solution. They want their right to ownership to be recognized and thereby have the possibility to sell, sublet or inherit the land.

The problem arose when district and city authorities in 2003 started to allocate these land areas on 99 year leases to certain private individuals and companies. It is the legality of these transactions which is now challenged by the farm workers and their lawyer.

There is a social side to this legal struggle. Some people have been left for ten years without income. More than half of the original land owners have now passed away and their children have tried in vain to take over the legal rights of their parents. Some of the farm workers have had to take a job with the new “owners” but said that they were badly paid and felt humiliated.

Comments

The transition from planned state economy to the new market approach with privatization and land distribution has caused certain obvious problems which have hurt the interests not least of some older people.

Some of the changes were not accompanied by legal developments which protected in practice the rights and interests of the more vulnerable in society. Some corrupt practices caused deeper problems in this context.

People feeling mishandled during these developments have not always managed to protect their rights through the judicial system – the laws have not been sufficiently clear and the procedures too slow. The more important it is that there is capacity in the executive and legislative powers to act in defence of those disadvantaged.

RIGHT TO HEALTH

Basic statistics and general overview

The average life expectancy in 2011, according to Transnistrian official data received by the Expert, was 73 years for women and 64 years for men. The most frequent causes of death were cardio-vascular problems (about 31%) and tumors (about 16%).

The infant mortality rate was 12 per 1 000 live-births in 2011. The main causes of infant deaths were maternal conditions during pregnancy and congenital anomalies.

The abortion rate in Transnistria has gone down somewhat but continues to be very high, approximately 4 500 per year. In reality, abortion is still a widely used method of fertility regulation, which raises questions about the availability of contraceptives and a policy on reproductive health care and information. The role of post-abortion complications in the maternal deaths cannot be underestimated.

Primary health care is largely based on Semashko system and provided by paediatricians, internal medicine specialists and their nurses. There are no family doctors and a general lack of medical staff, especially in rural areas. In-service training of medical professionals is very limited.

The number of doctors, including dentists, are reported by the authorities to be 2 000 which equals around 38 per 10 000 inhabitants. The number of hospital beds were 4 400, equal to around eight per 10 000 inhabitants.

The majority of the doctors got their education during the Soviet time and the Ministry recognizes that they need to update their qualifications through training and special courses. Some go abroad for this purpose, for instance to the Russian Federation, Ukraine and Belarus. An association of Transnistrian doctors was recently founded to promote the interests of medical doctors.

Mothers and their babies do not benefit from perinatal care at the level of internationally acceptable standards. This is not only because of lack of modern equipment, especially on district level, but also because of low capacity of medical staff using old technologies and lacking protocols.

The overall immunization rates are reported to have reached around 80% which must be deemed as low. Child immunization levels are however over 90% and expanding to new antigens such as hepatitis B, rubella, haemophilus influenza type B. Universal immunization against Rotavirus started in May 2012 and vaccination against Pneumococcus will be introduced in 2013.

A population survey in 2011¹⁶ showed that seven out of ten respondents had visited a doctor at least once during the previous 12 months, women considerably more often than men. Elderly persons had visited a medical institution more seldom which was explained by the fact that they to a larger extent live outside cities.

Another problem demonstrated in the survey was that lack of money prevented some people to seek healthcare services in spite of the fact that such services are offered free up until a diagnosis was established. Respondents in the elderly and rural population, in particular, indicated that a shortage of money was a reason not to seek healthcare.

The law protects a certain access to free medical care. Also, the health authorities have expressed interest in introducing a mandatory health insurance and have requested WHO's technical assistance in this area. There is, however, a concern about the costs involved. The Expert was told that they are considering a system which would be based on combined funding from employers and employees with state subsidy for the poor and other vulnerable groups.

Pharmacies are mainly private in Transnistria today. However, the state pharmacies in the hospitals provide pharmaceuticals free of charge. There are also some 'social pharmacies' that provide free medicines for a range of socially conditioned diseases such as diabetes mellitus and bronchial asthma.

¹⁶ Women's vulnerability to HIV/AIDS in Transnistria. Sociological Research Report. UNAIDS 2011

Cooperation on health issues

Health is one area in which there has been constructive cooperation with relevant authorities on the right bank as well as with international agencies. Thousands of patients from Transnistria have been received for treatment, including for surgical operations, in hospitals on the western side of the river. Resources from the Global Fund to Fight AIDS, Tuberculosis and Malaria have also been used to pay for prevention, treatment, care and support for people with HIV and TB on the Transnistrian territory.

The expert working group on health matters between the two sides (related to the 5+2 political process) has had constructive meetings. One issue discussed was the possibility of introducing a mandatory medical insurance in Transnistria which would also facilitate the payment of hospital care for those referred to treatment on the right bank. Today the costs for such patients have to be paid by themselves or by the Transnistrian hospitals having sent them.

Various donors have offered support to address the problems related to perinatal care in Transnistria. UNFPA has supported comprehensive reproductive health services and information through the establishment of a Reproductive Health Center in Camenca and organizing seven Family Planning Cabinets. A new Reproductive Health Center will be established in Tiraspol 2013.

HIV/AIDS

The level of HIV infection is one of the highest in Europe. The prevalence among the population above 15 years was estimated at 1.07% in 2012, which is a sign that the epidemic has become generalized. Tiraspol, Ribnitsa and Slobozia are the most affected areas.

There is no anonymous testing for HIV and adolescents under 18 years of age could only be tested with the consent of their parents. The general population survey indicated that only two out of three respondents knew where they could be HIV-tested. The rural population basically has no access to testing where they live. Of the tests carried out a high proportion had been compulsory.

The epidemic appears to be concentrated among injecting drug users (IDU), female sex workers (CSW), and men who have sex with other men (MSM) and their sex partners (acting as bridge populations and contributing to a generalization of the epidemic). Estimates of the size of key population groups at risk have put the IDU population at more than ten thousand, the women in sex work at two and a half thousand and MSM also at about two and a half thousand persons.¹⁷

There is a programme for treatment of those infected. Antiretroviral therapy was initiated in 2007 and based on the Tiraspol AIDS Center (*Centre for AIDS and Infectious Diseases Prevention and Control*” State Institution). The treatment is ambulatory and in some cases patients are hospitalized in Slobozia Central District Hospital where there are places designed for patients diagnosed with AIDS.

Now there are treatment centres in Tiraspol, Ribnitsa and Bender (which provides services for patients with TB/HIV co-infection) as well as in the Penitentiary Institutions Department. A total of 573 patients were covered in the ART programme in July 2012. All ARV drugs were procured from Global Fund sources.

Treatment must be sustained in order to be effective and there is an unfortunate tendency that adherence to treatment is low – there are drop outs and a high rate of lethal cases due to late identification of HIV and late enrolment in treatment. High migration rates, lack of appropriate counselling, the repressive character of the medical and epidemiological surveillance, and limited psycho-social support may constitute obstacles to continued treatment.

In the programmes for prevention, a major problem is that condom use is limited. The proportion of respondents in the population survey noted above who reported condom use was very small regardless of type of sexual partner. The main reasons stated by women were that the partner refused to use condom, and that it was embarrassing to buy condoms. Men indicated loss of pleasure as the key reason for not using a condom.

Over 50% of the new HIV cases are now reported among women (during pregnancy, HIV testing is part of the antenatal care and for free).

¹⁷ Stroup et al., *Estimating Sizes of Populations of People who Inject Drugs, Sex Workers, and Men who have Sex with Men*, Republic of Moldova, 2011.

Tuberculosis

The spread of TB infection is a serious problem in Transnistria. The Expert was informed by the Transnistrian Minister of Health that there were at the time 462 cases of TB, a figure which may well understate the scope of the problem. About one third of these cases were seen as extensively drug resistant (XDR-TB).

Almost half of the cases had been detected in the penitentiary institutions and 20-25 percent had come with returning migrants, often in an advanced stage.

Cooperation had been developed with the WHO and the United Nations in order to stem the spread of TB – both through preventive measures and cure of existing cases. The Transnistrian Ministry said that a special section at a hospital in Bender was to be opened for TB cases in need of advanced treatment.

The combat against TB is a question of political will and resources. It is important to develop capacity for rapid accurate diagnosis, to ensure supply of high quality drugs, to give supervised and standardized treatment and to record the outcome of each patient at the end of the treatment.

A regulation on coercive treatment for TB was adopted in 2012. The Transnistrian Ministry stated that it had not been necessary so far to detain anyone against their will or to coerce anyone to ingest medication, but such measures may have to be taken in future.

Coercive treatment

The Expert was informed that forced medical treatment combined with detention was used in the Glinnoe colony against persons suffering from alcoholism and drug addiction. The decisions on such treatment had been decided by a court. The sentences were for a certain period of time which had to be served even if the treatment was completed.

In the case of tuberculosis, the Expert was told about an intention to designate one hospital facility for involuntary isolation and treatment of certain categories of TB patients. There is a risk that this approach would discourage potential cases from seeking examination and treatment. This, in turn, would undermine the key ambition to detect and start treatment as early as possible.

It is essential to distinguish between detention, on one side, and forced medication on the other. Deprivation of liberty may in very exceptional cases be justified if there is a grave risk for the spread of contagious and dangerous infections. Such decisions must be based on law and taken through proper procedures and be regularly reviewed. The conditions must be humane.

Forced or coercive treatment is even more problematic and basically to be regarded as in clear violation of international human rights standards.

The Council of Europe Convention on Human Rights and Biomedicine states in a General Rule (Article 5) that an intervention in the health field may only be carried out after the person concerned has given free and informed consent to it. This consent could be withdrawn at any time. Furthermore, the person shall beforehand be given appropriate information as to the purpose and nature of the intervention as well as on its consequences and risks.

Under international law, forced medication may amount to “degrading treatment” and, if so, no legitimate justifications can be offered. As concerns detention on grounds of medical necessity, the restriction must be in accordance with the law and must be based on a legitimate and necessary objective. The means used to achieve the aim must be proportionate to the aim pursued (that is, that there are no alternative measure available which would be less intrusive). Such measures may not be arbitrary or involve any form of discrimination.

Comments

The challenges in the health field are huge in Transnistria. Basic health education is one area on which more needs to be achieved, in direct relation to patients but also among public at large in order to promote more healthy life styles (diet, non-smoking, limited drinking, etc.). Prevention of diseases should be given more priority also within the health care system itself.

Education of health personnel at all levels is crucial and would require considerable investments as will the necessary upgrading of equipment and information technology in the system. This will also be valuable for the development of the assembling of relevant data. Further exchanges with experiences and systems abroad would be helpful in such efforts.

The norms on human rights should be an essential element in the education of health personnel. A system-wide understanding should be developed about the principles of free and informed consent of the person concerned in any medical intervention, and of the practical application of this principle. This would require training for medical professionals, as well as a review and revision of procedures and protocols for various types of health interventions.

Broadening contraceptive choice, improving reproductive health services and ensuring reproductive rights are central and related concerns in the delivery of family planning services in Transnistria. They are also fundamental elements of the vision of reproductive health outlined at the 1994 International Conference on Population and Development.

The health of children must be a priority. Further efforts to reduce infant mortality rate is crucial as improved data collection on mother and child health. Plans to improve perinatal care and to ensure full access to immunization should be pursued.

The HIV pandemic requires prevention programmes focused on behaviour change; access by key populations at risk to harm reduction measures to prevent further infections; adequate medication to those who are HIV positive; access to anonymous and voluntary blood testing; as well as awareness campaigns for tolerant attitudes.

The capacity to rapidly diagnose TB infection is crucial in the fight against the epidemic. Efforts are needed to avoid any case of treatment interruption. Those with multi-drug-resistant forms of TB must have access to the necessary, though expensive, medicine.

The fact that the health authorities have established positive cooperation with colleagues on the right bank and with international agencies, including WHO, UNDP, UNICEF, UNAIDS, UNFPA, OHCHR and UNODC, is in itself a resource.

WOMEN'S RIGHTS AND GENDER EQUALITY

Equity facts and attitudes

Women have a lower rate of employment than men in Transnistria (37% compared to 46%), according to official statistics. At the same time, women are nowadays more frequently represented in vocational and higher education.

In the UNAIDS population survey mentioned above an assessment was made of gender norms in the society and in the family. Generally, gender equality is perceived by the population only in the frames of the equality in rights and not the equality of concrete possibilities. Quite a number of those interviewed (some 20 to 40%) voiced opinions which reflected discriminatory attitudes.

The role of woman in society is still largely seen as the protector of the home sphere, despite the fact that women today are equal partners with men on the labour market and often provide for the basic income of the family. Family life remains divided into traditional male and female responsibilities.

Less than ten percent of the members of the Supreme Soviet are women.

Domestic violence

Domestic violence is widespread in Transnistria. The 2011 HIV Vulnerability Survey showed that almost one fourth of the interviewed women (22%) who were married or living in union had been subject to physical violence from their husband or partner.

More than one third of all women interviewed had suffered physical violence from male perpetrators at least once in their lives. In half of these cases, the aggressor had been the husband or partner while in one fourth of the cases the perpetrator had been a father or a brother.

Six out of ten women had been subjected to threats or other psychological, emotional violence by their current or former partner. One third of them had experienced such abuse during the previous 12 months.

One in every 17 of married people stated they have been exposed to sexual violence by their current or former husband or partner. In more than half of these cases, the abuse had happened during the previous 12 months.

Young women aged 20-24 are most exposed to these forms of violence. Poor people are under more threat than others. There is no legal sanction for marital rape.

The Expert was informed that a law on domestic violence had been drafted and was under review. Non-governmental organizations, such as Resonance, have been campaigning for such legislation.

The NGO Interaction has, in cooperation with IOM, set up a phone helpline -- Trust Line -- for victims of domestic violence as a preventive measure to trafficking of human beings. The number of calls to the Trust Line has increased every year since it was established in 2009.

The NGO Women's Initiative has, with IOM support, provided individually tailored assistance to victims of trafficking and their families, victims of domestic violence, migrants identified abroad in difficult situation and others. A number of cases were referred from the Trust Line but also from other local and international NGOs as well as from local authorities.

The NGO Hope for Children has opened a small centre for women from vulnerable and impoverished circumstances and with children – but cannot receive women on an emergency basis.

In spite of these initiatives there are a number of difficulties for victims of violence to obtain protection and assistance on how to find a long-term solution. Non-governmental activists report that there is a lack of emergency shelters and relevant services, including psychological support and legal assistance. Police officers are often not prepared to handle cases of domestic violence in the interest of the victim. Also, there is limited awareness among victims on existing opportunities for help.

The sum is that effective protection and social support for victims of domestic violence and other forms of violent abuse against women, children and older persons is scarce.

Trafficking of human beings

Transnistria is a “source area” for victims of forced labour and commercial sexual exploitation. A high proportion of young people has plans or hopes to leave the region or has already done so. If engaged in irregular migration, they risk to be targeted by traffickers.

Labour migration routes for men and women are significantly different. The main area of occupation for female migrants -- according to the International Organization of Migration, IOM -- are in the services and trade field (55%) and also care for children and old people (29%). Many of the men among the migrants are employed in construction work (44%).¹⁸

Women, who work more frequently in isolated settings with limited access to services, are more vulnerable to various forms of exploitation. One fourth of Transnistrian migrants abroad avoided visiting medical institutions when having health problems – women even more rarely than men.

A number of children have become victims of trafficking. Many of them have no professional training and some have not even had primary education. According to the non-governmental La Strada, many of them come from poor, large and incomplete families, not seldom with problems of alcohol abuse and violence.

There is a *Law on Counter-Trafficking in Persons* since 2010 and a *Regulation of Interdepartmental Committee on Counter Trafficking in Human Beings* since 2011. However, there are problems of implementation.

A positive initiative has been taken by the NGO Interaction (mentioned above), with the support of other non-governmental groups and IOM. It runs a hotline for persons considering irregular migration, through which it receives more than a thousand calls each year – and the numbers are increasing. A number of cases requiring special protection and assistance has been identified and addressed.

Comments

The rights of women are a major concern which ought to be part of all discussions and planning in the field of human rights. The analysis and suggestions of UN Women would here be of particular relevance.

¹⁸ Expert inputs as provided by the International Organization for Migration (IOM).

Domestic violence tends to be a hidden, but very serious problem in most societies. To combat effectively such violations there is a need to develop a comprehensive programme which would include a strict legislation. Readily accessible physical shelter is also needed for those who need to flee an abusive family member.

Part of the programme should be to address all physical abuse in families as well as in various institutions, including schools. There should be a zero-tolerance approach to all forms of inter-personal violence.

In order to detect at an early stage signs of such violence there should be a clear policy that social workers, health personnel, teachers and other professionals in official position would be required to report suspicions of physical abuse and also psychological or emotional harassment.

Police officers have primary responsibility to stop violence and should be trained in responding to reports about cases of domestic violence. There are reports that the police have refused to receive complaints arguing that such testimonies are usually withdrawn later on. Effective social work is also needed to assist victims to recover and start new lives if they so wish.

The Expert was informed that women tend not to go to the police also because the only punishment decided had been a fine to be paid by the family budget.

The system of phone helplines is useful and needs to be further developed as well as the availability of shelters for victims of domestic violence (with capacity to receive a victim on short notice, alone or with children).

A policy should be established during which it will be the perpetrator rather than the victim who has to leave the common habitat when necessary in order to protect against further violence.

Trafficking of human beings is a most serious problem and measures against this form of slavery should be given high priority. A broad public awareness is essential. A clear analysis of the root causes and contributing factors must be part of renewed efforts to counter trafficking of human beings. Further coordination of key regional bodies and cooperation of local authorities are essential. The role of the foreseen Interdepartmental Committee, with civil society representatives, should be reviewed; its mandate should be given further strength.

Essential contributions have already been given by international structures, not least by IOM, which has developed a constructive work relation with a group of engaged NGOs. International norms and action plans are clear and concrete and can serve as a framework for an analysis of the legal and institutional instruments for efforts to bring trafficking to an end.¹⁹

The work already initiated to reform the enforcement structure for counter-trafficking can benefit further from international exchange, including with authorities in Chisinau as well as with others in the neighbourhood.

RIGHTS OF THE CHILD

International standards

The United Nations Convention on the Rights of the Child is one of the international treaties which the *de facto* authorities in Transnistria have pledged to respect. A consistent implementation of the norms in this treaty is demanding and would require that genuine priority be given to children's rights, also in terms of budget allocations.

In order to guide the interpretation of the convention four major principles have been defined by the relevant UN committee: that no child or group of children should suffer discrimination; that the best interest of the child should be a primary consideration in all decisions affecting the child; that every child has the right to life and development; and that every child should have the right to express opinions and that these be heard and given due consideration.

The Convention asks for concrete steps to ensure implementation of the principles and the norms. They should be reflected in the overall legislation; there should be meaningful action plans as well as systematic monitoring of progress and remaining obstacles; disadvantaged children and children at risk should be given particular

¹⁹ See in particular United Nations Office of the High Commissioner for Human Rights (OHCHR), "Commentary: Recommended Principles and Guidelines on Human Rights and Human Trafficking", New York and Geneva, 2010: http://www.ohchr.org/Documents/Publications/Commentary_Human_Trafficking_en.pdf.

attention and support; personnel working with children should be educated and trained for this task, and public at large should be made aware of the requirements for a rights-based child-friendly society.

The Expert raised these issues with key decision-makers in Transnistria. They all demonstrated a great interest and recognized that the challenges are enormous in this area. They also stressed the importance of their cooperation with UNICEF.

A positive step was the recent agreement by the Transnistrian authorities to carry out a "multiple indicator cluster survey" to obtain data on child wellbeing indicators related to health, education, water and sanitation and other issues. The hope is that this would complement and strengthen existing data collection efforts as well as facilitate international comparisons.

This should also be a valuable contribution to addressing child health problems mentioned above in the chapter on the Right to Health: perinatal care; infant mortality; and immunization coverage.

Children with disabilities and other vulnerable children

Around 4 000 children are accommodated in institutional care. They have disabilities, are orphans or are coming from dysfunctional families.

Data from 2010 showed that 4 305 children were kept in some form of institution. Among them 1 715 with physical disabilities, 408 were orphans, 1 586 without parental care for other reasons and, 596 taken from dysfunctional families.

These children are placed in one of the around twenty institutions set up to care for disadvantaged children. Four of them are "family type" and house 4-8 children each but several others are large, old-style institutions with up to a hundred, or even more, children.

The Expert visited the Children's Home in Tiraspol, the boarding school for disadvantaged children in Parcani and the part of the psycho-neurological *internat* in Bender where boys with disabilities aged 7-17 were kept. In the children's home, there were several tens of smaller children, some with disabilities and some being orphans or coming from dysfunctional family background. In the institution in Parcani there were some 220 children of school age. Around half of these children's parents had died or had been deprived of their parental rights. These children are officially classified as "orphans". The other half were from otherwise vulnerable families. Some children were disabled.

In the Bender institution, there were 20 boy inmates, some of them diagnosed with cerebral palsy. The Expert is concerned at information from staff members with whom he met that these children's life expectancy is very short. This should not normally be the case of children with cerebral palsy or similar conditions such as spina bifida, as these are not progressive conditions.

Children with the status of orphan receive full economic support from the authorities. For the others, only education and food was covered. This made the institutions dependent on grants from local associations, churches and international donors. With limited resources, the directors and staff in these institutions are trying to create a child-friendly atmosphere.

Some of the children have had an extremely difficult start in life. In the Parcani *internat*, a number of clearly traumatized children with experience of violence and neglect, which now made them refuse any contact with their biological parents.

The officially appointed guardian of the orphans, including for cases when the biological parents had been deprived of their parental rights, was the Director of the institution.

In the Tiraspol children's home, the staff were trying to find suitable family solutions for the children on an individual basis, including through adoption. For children with physical disabilities, they also sought possibilities for medical treatment. Eleven children from the Parcani boarding school had recently been placed with families for a kind of foster care. However, the Expert did not see any systematic approach to promoting alternatives to the institutional system. However, the Transnistrian Deputy Prime Minister in charge of health and social affairs signalled a determination to initiate a process of de-institutionalization.

Also, the Bender institution appeared to be well maintained, hygienic and with a staff which gave the impression of working with affection for the boys. However, there were no individual treatment plans or expectations for most of them to ever re-enter society.

No education services were provided and there was a lack of specialists in psychiatry, social work and physical therapy. This problem was highlighted by staff members who felt that some of the boys would have development

potential if assisted. The lack of efforts to set and achieve goals means that the boys are consigned to a life of extreme dependency.

Cerebral palsy is not always accompanied by intellectual disability but development will be delayed if there is little or no stimulation in the care homes. For them, as for everyone else, regular attention and affection from adults who care for them is necessary if they are to form strong and positive emotional attachments. This need can be met by ensuring they have regular carers who interact with them.

There are families in Transnistria who keep their children with disabilities at home rather than trying to place them in institution. They face economic problems as the mother in reality is prevented from taking any job outside the household and the state support is minimal. Some form of day care facility for such families would improve the situation as would respite care, and making existing summer camps accessible for children with disabilities.

Consequences of emigration

One problem raised in several of the Expert's discussions was the need to find ways of supporting children and older persons left behind by family members who have left Transnistria to work elsewhere. There is a risk, the Expert was told, that they may be subjects of discrimination and in danger of falling into social exclusion. This requires initiatives designed for the protection and assistance of children and the elderly left behind, as well as the facilitation of family reunification. Specific support could be organised through active involvement of the civil society – as has happened on the right bank, where NGOs that have acquired experience in addressing the issue of negative consequences of emigration on children and others left behind.

Progress through cooperation

At the Tiraspol Children's Home a multifunctional crisis centre has been established with the help of UNICEF and local NGOs. The purpose is to offer services to vulnerable families and support so that child abandonment and institutionalization can be avoided. These efforts have made it possible to initiate reintegration of very young children from the children's home to their biological families and prevent institutionalization.

Non-governmental organizations in Transnistria have been active in efforts to increase broader awareness about the UN Convention on the Rights of the Child and the idea of human rights for children. Printed materials have been published and disseminated. The capacity of the civil society groups have been strengthened through special training sessions on how to advocate for children's rights, not least at local level.

Comments

A separate ministry for social affairs will be set up in Transnistria in 2013. It will have major tasks to tackle. One relates to the approach to vulnerable people, dysfunctional families, orphans and persons with disabilities.

A key point is to focus on the right of the child to a *family environment* whenever possible. This requires support to families in crisis or at risk. Social workers, teachers and others have in these situations an important role both to identify problems and to assist in their solutions.

In order to protect the right of children with disabilities to live with the family there will be a need to encourage and advise parents on how to cope. The possibility of day care for such children would in some such cases make life easier for the parents, especially in one-parent families.

For the children with disabilities there should be a professional assessment on the cognitive and locomotor capacity and potential. This would be the basis for individual treatment plans to set goals and monitor progress towards motor and intellectual development. Children with cerebral palsy and similar conditions such as spina bifida should receive appropriate treatment in accordance with current standards.

As far as possible, steps should be taken to make it possible for children with disabilities to attend ordinary schools. There is also a need to promote social acceptance of their inclusion in schools and in the broader community.

In order to assist previously institutionalized children with disabilities, the authorities might establish centres for their improvement and training. Such small group homes have been established on the right bank with good result.

Some of the children in the institutions come from traumatizing conditions as their parents failed to offer a caring environment due to drug addiction, alcoholism, domestic violence or other deep social problems. This

calls for a vigilant approach to preventing such social ills in order to protect the children. But this is of course a struggle which will not yield quick results.

There will of course even in the distant future be cases when a child cannot stay in a home with his/her parents. In these situations a well-functioning system of foster family placement is preferable to the collective institutions.

A serious plan for de-institutionalization should be developed in Transnistria. It is important that it include strict criteria for selecting, training and advising foster families in order to give protection to the children. International experience has demonstrated that such systems must be developed with caution.

The agreement between the *de facto* authorities and UNICEF on an assessment of the child care system that could form the basis for the desired reforms of de-institutionalization.

RIGHTS OF PERSONS WITH DISABILITIES

International standards

The *de facto* authorities have not yet pledged to respect and implement the provisions of the UN Convention on the Rights of Persons with Disabilities (CRPD). However, the expert heard officials in Tiraspol stating that this was only a question of time.

The CRPD Convention is now the key international instrument for the promotion and protection of the rights of people with disabilities. One of its basic principles is that the society should adjust as much as possible in order to ensure equal opportunities for everyone -- including those with physical or intellectual impairments as well as persons with mental health problems.

The CRPD Convention supports calls for inclusive education and community living instead of accommodation in old-style institutions. It rejects the notion of depriving some persons of their legal capacity because of their disability. Its idea is that everyone should have a chance to live a common life in society and be allowed and supported to take decisions for themselves.

Institutional care for persons with disabilities

The expert visited the neuro-psychological institutions (NPIs) in Tiraspol for adult men and in Bender for adult women (there were also boys from 7 to 18 years of age in this institution – see chapter on Rights of the Child). The Expert also visited the psychiatric hospital in Vhvatintsi.

The Vhvatintsi hospital houses inmates whom, the Expert was told, are institutionalized for an average length of six years. Persons not expected ever to be released were sent from Vhvatintsi to one of NPIs. Inmates in the Vhvatintsi hospital appeared well-fed, but there appeared to be little provision for the privacy of the person in this institution. Inmates had scant opportunities even to retain small personal belongings such as photographs or books. They were under close surveillance and the Expert was told that there are plans to strengthen the security provisions of the external periphery of the hospital. The review of the continuing necessity for institutionalization did not appear to meet international standards as set out under the CRPD Convention and under the jurisprudence of the European Court of Human Rights.

Of the 361 patients in the Tiraspol NPI two thirds were kept there because of schizophrenic or oligophrenic disorders, though there were a number of inmates with other problems, including epilepsy, alcohol and drug addiction, and physical disabilities. Also, 17 women were kept there in spite of the gender division between the two institutions. The majority of the 350 women in the Bender NPI had been diagnosed as schizophrenic.

The total staff amounted to 152 and 163, respectively, in the two institutions.

The boys in Bender would be moved to Tiraspol when reaching the age of 18. In another, smaller institution in Bender there are girls who would be moved to the main women NPI when reaching the age of majority. Otherwise the attitude was that those who had come to these institutions would stay there for the rest of their lives; they were not seen as curable.

The conditions in these institutions are simple and the Tiraspol NPI, in particular, is overcrowded. However, the material standard could not be deemed to be worse than the situation in similar institutions in other parts of the former Soviet Union. In fact, the hygienic standard seemed to be high and the staff appeared on the whole to be caring for the inmates.

The managements did not complain about the funding; the expenditures were covered from the state budget. Some money came from the older inmates' pensions and the Russian Federation provided support for the Russian citizens.

The Expert was informed that the doctor was administering the medication and refusal was not accepted; if necessary pills were put in the food. However, the inmates did not give the impression of having been given overdoses of tranquilizing medicine.

Those legally capable received some pocket money for minor expenditures; for the others the guardian assisted in the purchase of necessities.

Most of the inmates in the NPIs had been deprived of their legal capacity – in Bender four fifths and in Tiraspol NPI two thirds. The institutions themselves had become the guardian, after a formal approval by relatives to the patient.

Some of the patients with whom the expert talked mentioned a problem which apparently is not unique. They said that they had been more or less dumped in the institution by their relatives, in some cases by their own children. Their purpose was said to have been to take over the house or the apartment of the patient. In some cases the same relatives had ensured that the patient lost his or her legal capacity which deprived the patient from the possibility to seek legal assistance.

The Expert was also told about some cases of people referred to the NPI -- after having got a depression in connection with some a personal tragedy – and never recovered but died after a short while.

Inmates on the whole gave the impression of being “institutionalized”. The key problem is the very approach where persons with disabilities are kept in big institutions which can never function in the interest of their inmates. The daily routines tend to dehumanize them.

Also, patients with different problems are accommodated together in a way which causes tensions. The system does not allow for much efforts of rehabilitation, including social and physical training as a preparation for an independent life in the community. The patients tend to be deeply dependent of the institution life and have their contacts with the outside world limited.

Comments

There is a need for a review of the approach towards persons with disabilities. The benchmark framework should be the Convention on the Rights of Persons with Disabilities with its important principles and norms. A plan for the closing of the old-style institutions should be developed. The plan should encourage community living, either with families or in small group housing with some assistance from, preferably, local authorities and civil society groups.

No one should be denied their decision making right. Instead of the deprivation of legal capacity, an approach should be developed in which caring, impartial assistance is provided in line with the UN Convention.

It is essential to make the public aware of the need to respect the rights of persons with disabilities. New houses, and especially official buildings should be constructed so that wheelchairs can have access. Persons with sight and hearing difficulties should have access to necessary equipment to overcome such handicap. Other steps as well should be taken to make it possible for everyone to communicate and benefit from media, education and leisure activities.

These measures would require some resources, even if some initial steps in fact would not be too expensive. Also, one has to consider that when persons with disabilities to a larger extent would be able to take jobs and through other means contribute, this is a gain for all. More importantly, efforts are more than justified when building a more humane society – with respect for everyone.

For persons with disabilities there seems to be a need for some kind of general advocate or special ombudsman with resources to do outreach work in order to listen to complaints which otherwise would not be heard or even formulated.

RIGHTS OF OLDER PEOPLE

Some facts

There were 136 700 pensioners in Transnistria in January 2012 according to statistics provided to the Expert. The average monthly pension rate was close to 1 000 Transnistrian rubles (less than 100 USD).

Many older people live in poverty, but there are special homes for old people in each *raion*. Special consideration is given to the veterans.

As many middle-aged persons have gone to other countries as migrant workers older people have been left to care for grandchildren. Some of these elderly have difficulties to cope with this situation due to lacking physical and economic resources.

Comments

There is an obvious risk that older persons and their interests will be “forgotten” in the modern society, especially when their younger relatives go abroad. They may lack resources and contacts to be heard in politics but also in relation to their own personal problems. Their situation should therefore be carefully considered when social policies are developed. This will be an important task for the newly-established Transnistrian Ministry for Social Affairs and Labour.

RIGHTS OF DIFFERENT POPULATION GROUPS

Overall policy on population groups, including minorities

There is no official recognition of minorities as such in Transnistria. At the end of 2011 the official figure for the number of inhabitants was 513 000 -- among them Russians (156 000), Ukrainians (148 000) and Moldovans (164 000). The remaining 45 000 belonged to a number of small groups, the biggest being Bulgarians (13 000).

Russian, Ukrainian and Moldovan are recognized in the Constitution as the official languages, formally with equal status (though the Expert could notice that Russian had a privileged status in many contexts).

A large number of Transnistrian inhabitants have Russian Ukrainian or Moldovan passports.

Nationalities and ethnic or linguistic minorities

The Transnistrian Constitution recognises that Transnistria is “multi-national” (*mnogo-nacionalne*). Three languages are officially recognised: Moldovan, Russian and Ukrainian.

Russians

The Russian Federation is by far most important trade partner and source of financial support to Transnistria. The budgetary contribution is considerable and a number of elderly persons in Transnistria receive pension allowances from Russia. There is also a presence of Russian soldiers linked to the Joint Control Command as well as in the special contingent guarding the military equipment and ammunition depot in Colbasna.

Cooperation with the Russian Federation is close in other areas as well. Decisions in the Russian Duma have served as a source of inspiration for the Transnistrian lawmaking and there is cooperation on school curricula.

These relationships appear to have contributed to a strengthened position for the Russian language and experience in daily life, not least in the administration itself.

Ukrainians

About one third of the primary schools has Ukrainian as the language of instruction. There is one newspaper in the language and twenty minutes broadcasting on one of the TV channels. Radio and TV broadcast from the Ukrainian republic is available in Transnistria.

Those with Ukrainian passport were previously able to vote in Transnistria in the official Ukrainian elections. This was not the case in the 2012 election as the Ukrainian authorities did not open any polling station in Transnistria; the requirement was that people should go to Chisinau or Balti on the right bank to cast their votes which was not practically possible for the majority.

Another problem raised with the Expert related to the control at the Ukrainian border. The border has been drawn through villages and thereby in some cases divided families and made access to the other side more cumbersome.

Moldovans

The main issue raised with the Expert by Moldovans in Transnistria was the situation of the Latin script schools (see next chapter on the Right to Education). The Expert received complaints from individuals who felt they were ill-seen or discriminated against because of their closer contacts with authorities or organizations in Chisinau.

Beginning in 2012, the Moldovan private television channel “Publika TV” and the Moldovan state broadcaster “Moldova 1” were able to broadcast in Transnistria. Publika’s broadcasting was stopped in November 2012 with the argument that the other side had not responded with a similar license for any TV broadcasting from Tiraspol.

Bulgarians

The Expert had not much contact with representatives of the Bulgarian community in Transnistria. It is the largest language group after the three official ones. The Expert heard the opinion that little respect was shown to their language rights.

Roma rights

There are 5 500-6 000 Roma in Transnistria, according to estimates by some of their spokespersons. The number was much less (507) in the 2004 census as, similarly to elsewhere, many Roma identified themselves as belonging to one of the major population groups.

The Expert visited a number of families in Bender and Varnița (Security Zone)²⁰ and found their situation to be generally precarious. They have few possibilities to earn their living and several of the elderly had health problems which they could not afford to address. Those who were able to do so, had gone abroad to seek temporary employment.

Those who spoke with the Expert stated that people in the neighbourhood were friendly and bore no prejudices against Roma. However, they were deeply concerned about a woman who had been imprisoned for having tried to earn money through fortune-telling (a case which the Expert raised with the authorities).

They also raised a number of cases of physical abuse of Roma detained by the police. The Expert also received information that there have been cases in the recent past in which Roma have been expelled in groups from the territory.

Comments

Ensuring *equal rights* for everyone in society regardless of their ethnic, language or cultural characteristics is a basic human rights challenge. A positive settlement in the political negotiations would probably be helpful in this regard.

The focus on the balance between the three major population groups may overshadow the need to protect the minorities and their interests. The establishment of a commission with members from the minorities themselves might be considered in order to give them an effective channel to key decision makers and in the public discussion.

²⁰ The Security Zone, created after the conflict in 1992, is a delimited area (by set coordinates) between the two conflicting parties, where they should not have any military forces and weaponry without a common agreement. The security in this area is enforced by a Joint Control Commission (Moldova, Transnistria, the Russian Federation, plus Observers (Ukraine and OSCE)) giving directives to a trilateral (Moldova, Transnistria and Russia) Peacekeeping Force.

RIGHT TO EDUCATION

Education policy

The Transnistrian education policy is built on state schools; the central authorities decide on the curricula and the local or regional authorities are in charge of the technical issues, including the hiring of teachers.

The first nine grades are obligatory and there is a possibility to continue until the eleventh grade. The main teaching language is Russian or Ukrainian or Moldovan. From second grade, pupils learn a second language (among the three). In the state schools the Moldovan teaching language is in Cyrillic alphabet (about Latin script schools, please see below).

A network of pre-schools is developed and there are now, according to the Transnistrian Minister, 160 such institutions (in Moldovan and Russian).

Nostrification of diplomas issued in Transnistria is under discussion. Ukraine requires that such diplomas be endorsed in the Republic of Moldova before being valid at a Ukrainian university, while Russia is ready to do the nostrification without such endorsement. The Expert was told that the Moldovan authorities have kept the diploma issued by the Transnistrian authorities when issuing the Moldovan documents.

This issue has been discussed in the expert working group on education between Chisinau and Tiraspol and also in the major 5+2 talks during which it was suggested that the procedures could be simplified and that the applicant could get back his or her original diploma.

State schools

The Expert visited a Ukrainian school in Bender for discussions with teachers, pupils and parents. The school had 40 teachers, several of whom wanted to gain experience abroad.

The Expert was told that there was a lack of teachers in Ukrainian. A decreasing number of students studied in Ukrainian in the universities and those who did had difficulties to find a job in Transnistria.

A major concern was a feeling of isolation from the rest of the world, to which the problems related to the recognition of certificates and diplomas had contributed.

The fee for having the diploma endorsed was said to be high and in some cases the applicant had to wait for several months before the necessary documents could be obtained.

The teaching was based on one standardized Transnistrian curriculum with some adjustments in relation to Ukrainian history and culture. Teaching material was imported from Ukraine.

The Expert also visited the Moldovan school (Cyrillic script) in the Teia village. He was told that the teaching manuals were edited in Tiraspol by a working group under the Institute for Educational Development and that consideration was given to Moldovan traditions.

The Transnistrian Minister said that there were 4 688 pupils in the Cyrillic script schools as compared to 1 244 in the Latin script ones.

Moldovan Latin script schools

The Latin script schools are administered by Moldovan authorities. Two of the eight schools, those in Dubasari and Grigoriopol, were previously closed by Transnistrian authorities and had to move to Moldovan-controlled territory; the others remain in Transnistrian-controlled areas.

The schools have had a number of problems with the authorities. There have been disputes about the premises, teachers and parents have been intimidated and there have been obstacles to travels and transports of goods. In 2004 there was an attempt to close down the schools in Tiraspol, Bender and Ribnitsa with force. The authorities in Tiraspol demanded that the schools be integrated into the Transnistrian legal framework.

The European Court on Human Rights deemed the treatment of these schools and the situation of the children therein to be in violation of the European Convention on Human Rights.

The Expert met with directors and teachers of the schools in the premises of the Tiraspol school. A certain hope had been raised by the fact that the fate of the schools now was under discussion in the joint expert group on education and the 5+2 talks.

An agreement was reported about a recommendation to the local authorities to remove or at least reduce the rent for the premises. However, several other issues remain unresolved. The two schools which had been moved have still not been able to move back and there are outstanding issues related to school buildings.

When discussing these issues with key decision makers in Transnistria, the Expert was given the impression that these problems could be resolved.

The politically sensitive issue appears to be the relationship between these schools and the education system in Transnistria. Today five (out of the six) schools on Transnistrian-controlled territory are registered as legal entities but none of them has been licensed to conduct educational activity.

For licensing, the law does not require accreditation or attestation -- that is, adoption of Transnistrian curricula -- but it does require some coordination of curriculum with the Transnistrian educational ministry. These facts were presented in a survey recently by the OSCE Mission to Moldova, in cooperation with the OSCE High Commissioner for National Minorities.

The Expert has studied the survey and found it a useful basis for constructive efforts to seek solutions which would benefit the interests of the children.

Comments

Both controversial issues -- the one on *nostrification* of diplomas and the one on the *Latin script schools* -- have been discussed in the Working Group on Education and the 5+2 talks.

The Expert hopes that solutions will be sought and found in the interest of the rights of those directly concerned. Individuals should as far as possible be protected from the adverse consequences of the current political situation.

This may require some intelligent diplomatic activities and a readiness to accept concrete step-by-step proposals which would build trust and -- most importantly -- make sense for the individuals concerned.

FREEDOM OF RELIGION, CONSCIENCE AND BELIEF

Laws on religions

The Constitution states that freedom of religion will be protected. Where one particular religion is dominating, as in Transnistria, protection of religious freedom will require a care that people adhering to minority religions are not disadvantaged in their possibilities to profess and practice their beliefs.

The rules regulating the establishment and functioning of the religious communities -- a 1995 law -- were amended in 2007 and then again in 2009. Following the 2007 amendments, all religious communities were required to re-register under the new law. Some have not yet succeeded in doing so, and some others have never enjoyed formal registration in the first place.

The UN Special Rapporteur on freedom of religion and belief noted during his visit in 2011 that the registration rules raise concerns. He mentioned in particular the probation period of 10 years for new religious communities, from the date of initial registration. During that period, the communities are barred from various forms of public communication, including the distribution of religious documents or appearances in the media. The Expert was told that this rule was still in force and understood this to be based on a certain fear of "cults".

Religious minority groups

There are some small *Muslim* communities in Transnistria but no one of them has been registered. The Expert met one representative of the Tartars, a community with a couple of hundred members living in Tiraspol and Bender. They have no mosque but rent an office for prayer. Women who wore head-covering had faced interpersonal problems. The Expert was told that Muslims in general had no particular problems with the authorities. However they understand that they are under surveillance by the security services and are seen with suspicion.

There are five *Jewish* communities, all of them re-registered according to the 2008 law on religious organizations. Most of the members live in Tiraspol, Bender and Ribnitsa. The population is now much reduced compared to the situation before World War II. The Expert was told that the number now is 4 500 but the official figure is lower.

A new synagogue was built in the 1990s in Tiraspol, while some other synagogues have closed down. There have been some recent vandalism against Jewish symbols, including a Holocaust memorial and a cemetery, but a spokesperson said that such acts were rare and not supported by the authorities. The Jewish community in Tiraspol is currently in discussion with the city about the creation of a Holocaust memorial.

The Expert visited one community in Bender which evidently experienced a range of difficult issues related to the use of a synagogue confiscated during the Soviet period.

The *Catholic* community counts less than 1 000 members in Transnistria, mainly living in Sloboda-Rascov and Ribnitsa. The Expert visited the church and community in Rascov which have strong Polish connections. They stated that they live in harmony with the dominant Orthodox church and, in fact, organize in cooperation with Caritas food and afternoon classes for vulnerable children from both Catholic and Orthodox families.

The *Baptist* community in Tiraspol was previously registered but was asked to seek re-registration after the 2007 amendments to Transnistria's rules for the establishment of religious communities. For this, the authorities requested a copy of the minutes from a meeting in 1966 when the community was founded. This document is missing; the community believes it is archived in Chisinau and has failed to obtain it from there.

The Baptist representative with whom the Expert met estimated the number of members at 1 000, spread out over a number of municipalities. Some of the local communities are registered but not the two largest, those in Tiraspol and in Bender.

A spokesperson told the Expert that they had had problems after the 2008 law to conduct humanitarian charity work, including handing gifts to prisoners and to children in an *internat*.

There are *Lutheran* communities in Tiraspol and Camenca. A primary community building in Camenca was seized during the Soviet period and is currently being used as the offices of one of the security services. The community has been endeavouring to recover the building, as yet without success. Members of the Lutheran community have worked actively on behalf of persons in detention. Originally registered in 2004, the community remains barred from communicating with the public until 2014, under Transnistria's 2007 amended rules on religious community registration.

The *Jehovah's Witnesses* in Transnistria have been struggling for official registration for more than twenty years. In fact, they obtained a first registration in Tiraspol city in 1991 and were re-registered by the Transnistrian Ministry of Justice in 1994. Until 1997 they could profess their religion freely. However, after the appointment of an "Authorized Representative on matters of religion and cults" (a position abolished in 2012) the issue of registration was reopened. The Authorized Representative asked the Transnistrian Ministry of Justice to declare the re-registration illegal. The Ministry complied with this request and a long legal struggle followed which is still ongoing. If the court finally rules in favour of the withdrawal of registration, the Jehovah's Witnesses community may have to be officially dissolved.

Even if their claim would be accepted by the court, they fear that this might be seen as a new registration and that the community, according to the law on religious organizations, would have to wait for an extra ten years before a final confirmation of the registration which would allow it to function openly. Members of the Jehovah's Witnesses stated that the community remains under pressure, and members of other religious communities stated that they believe that the Jehovah's Witnesses are under pressure and threat at present.

There are, according to the community representatives, around 2 500 Jehovah's Witnesses in Transnistria. Apart from the once-registered communities in Tiraspol and Ribnitsa, there are some 30 other unregistered groups.

A theological evaluation committee has apparently played a role in the official approach to the Jehovah's Witnesses. The Expert was informed that the consultation with this body had been discontinued which might be a sign of progress.

The other major problem for the Jehovah's Witnesses is that there is no law providing for alternative civilian service in Transnistria. In fact, the Transnistrian Constitution prescribes that military service is "universal". As a result, in the recent past, some 30 Jehovah's Witnesses have been prosecuted when refusing military service. Some of them have been imprisoned while others have had to pay a fine.

The Expert has been informed that no attempts have been made in recent months to conscript members of this community to military service and that a court recently awarded compensation to a member of the community who had previously been prosecuted for refusing military service.

Comments

The Constitution states that Transnistria is a secular state and that everybody has the right to profess any religion -- or not profess any. It seems that the spirit of this principle has been lost and that some groups other than the Orthodox church are seen as “sects”.

The procedures for registration of religious organizations need to be reviewed. Registration – if at all deemed as necessary – should be swift, not unduly bureaucratic, and not discriminatory. The required probation period should be abolished and there should be no distinction between those registered and those not as concerns their possibility to exercise their basic human rights.

The law on military conscription should be amended to allow for a civil alternative for those whose conscience prevents them from taking part in military activities.

OTHER MEASURES OF SYSTEMATIC IMPLEMENTATION

Planning for human rights implementation

For implementation of human rights to be effective, there is a need for a strategic and consistent approach. It has to be recognized that some changes will require sustained efforts over a period of time.

Planning of the reforms is necessary. The first step in building a comprehensive human rights action plan is to identify the key problems. A so-called baseline study would produce a broad overall picture of the human rights situation. To be meaningful, such a study has to be conducted in a transparent and consultative manner; representatives of non-governmental organizations and other interest groups ought to be invited to submit suggestions and ideas.

When a plan is worked out and given political authority it is essential that its implementation is monitored and subject of continuous discussion.

Assembling and processing of relevant data

The Expert received detailed figures for 2010 or 2010-2011 on employment; salary levels; mortality rates; infant mortality; morbidity statistics in relation to different illnesses; other health care statistics; school enrolment and other educational data; number of pensioners and pension rates; migration; and basic population data. He received data directly from the Transnistrian Ministry of Justice on the number of inmates in the penitentiary institutions.

However, it seems that vital statistics and data are available to few others than decision makers; there are few relevant publications and limited on-line data available for the broader public. Another concern is the reliability and usefulness of existing data.

The explanation is that the statistics services are under-resourced and not sufficiently developed. The Expert understood that there is an intention to prepare for a full-scale population census as well as a household budget survey and the introduction of systematic gender and age-aggregated statistics. Such plans would require trainings, seminars and conferences to develop staff skills but also modern technology.

Authorities on the right bank declared a willingness to cooperate in such endeavours, including in sharing experiences.

Human rights education and training of personnel

In spite of the fact that human rights have a prominent position in the Transnistrian Constitution and decisions have been taken connect to international human rights treaties, there appeared to the Expert to be little teaching on human rights standards – in the basic school system; at university level; and in vocational training. This seems to be one reason why there are gaps in the implementation of human rights. Useful references that could

assist developing practical activities for primary and secondary schools can be found in the publication called “ABC: Teaching Human Rights”.²¹

There are some categories of professions which are of particular interest in order for a culture of human rights to be developed. Apart from judges, prosecutors and attorneys, they include police officers; social workers, health personnel and teachers at all levels – and, certainly, politicians and civil servants.

Ombudswork

The Expert visited the office of the Ombudsman for discussions with the ombudsman himself. The Ombudsman’s office processes complaints from individuals and monitors the situation in institutions, such as prisons. The Ombudsman stated that his recommendations are taken seriously by the relevant authorities.

Prison directors referred to the visits from the Ombudsman’s office as useful. However, the Expert noticed that there were few references to the Ombudsman from civil society representatives which gave the impression that the outreach from this office was limited. Also, the Expert found that there was some lack of clarity regarding the division of labour between his office and the one of the Prosecutor.

Further relevant references for national human rights institutions can be found in the Paris Principles²² and in UNDP-OHCHR Toolkit for collaboration with National Human Rights Institutions.²³

Complaints mechanisms and procedures to ensure accountability

An atmosphere of transparency in the administration tends to create trust. There should in all public institutions, not only in prisons, be a system for conveying complaints (also in confidential form) and for them to be given due consideration. It should be safe to complain – whistle-blowers and witnesses should have protection and encouragement.

Those elected and others in position of power should be accountable for their deeds in relation to the society and individuals therein. Crimes, whoever has committed them, should be brought to the court system for punishment. Other acts of misbehaviour, bureaucratic mistakes or breaches of trust should also be addressed for appropriate correction.

A culture of accountability is absolutely important also for the combat against *corruption*. The Expert met people who complained to him about corrupt practices, including in the law enforcement structures. The fundamental principle of equality before the law does not allow for bribery of any kind.

Cooperation with civil society groups

The Expert met representatives of a number of non-governmental organizations. Some are directly involved in charity work in favour of, for instance, children or persons with disabilities; others are representing and defending the interests of a minority; and others again have taken on a more classical human rights task such as to monitor the procedures in the justice system or promote more effective human rights laws and policies.

These groups disseminate information about human rights and should be seen as an asset for the population in Transnistria. However, some of them felt that their activities were looked upon with suspicion by the authorities and that they had met bureaucratic barriers. This point was made in particular by groups which had cooperation with NGOs on the right bank.

²¹ Please see United Nations Office of the High Commissioner for Human Rights, ABC: Teaching Human Rights: <http://www.ohchr.org/Documents/Publications/ABCCoveren.pdf>. The Publication aims to serve as a user-friendly tool for human rights education and a multi-coloured umbrella covering a number of basic human rights areas. It offers practical advice to teachers and other educators who want to foster human rights awareness and action among primary and secondary school children, including suggestions for developing learning activities. It is not meant to place an extra burden on an already overloaded curriculum but to assist in infusing human rights issues into subjects already taught in schools.

²² <http://www2.ohchr.org/english/law/parisprinciples.htm>

²³ <http://www.ohchr.org/Documents/Countries/NHRI/1950-UNDP-UHCHR-Toolkit-LR.pdf>

Civil society groups have of course a totally different role than the official authorities and disagreements are therefore quite normal. However, the experience of the Expert is that a dialogue and open channels between NGOs and authorities is the proper approach to cope with such differences.

CONCLUSIONS AND SUMMARY RECOMMENDATIONS

Conclusions

The work of the Expert was facilitated by several positive factors: the openness and constructive response of the *de facto* authorities; the support of the Government of the Republic of Moldova and of the international community, including its diplomatic representatives in Chisinau; constructive cooperation from civil society organizations; the helpful assistance of the staff and management of the many institutions the Expert visited; the trust demonstrated by individuals who hoped that the Expert might be able to assist in finding solutions to their specific concerns.

The Expert worked in close cooperation with the UN Resident Coordinator's Office and the OHCHR but also with UNDP, UNICEF, WHO, UNFPA UNODC and IOM. Advice was also generously given by the offices of OSCE, Council of Europe and the EU.

The fact that Transnistria is not recognized as an independent state but is run by *de facto* authorities is a factor that cannot be ignored. The Expert realizes that a solution to the "status issue" would facilitate the handling of some of the issues raised in the report.

Also, he noticed that many people in Transnistria expressed concern about the limitations to their ability to travel and transport goods. He did not enter a discussion on matters relating to freedom of movement as these problems can only be resolved through negotiations, such as the talks in the 5+2 process.

As the *de facto* authorities recognize the relevance of the international human rights standards, the discussions on their concrete consequences was accepted as relevant. The Expert also learned that the Constitution, in fact, makes references to the same or similar standards.

A key problem in Transnistria, as in many other societies, is the *implementation* of the agreed standards.

A new leadership came to power at the end of 2011. It was faced with a great number of structural and attitudinal problems related to human rights. Corruption was deep and widespread and the trust in the justice system limited among people at large. The public institutions were not accustomed to monitoring or being questioned. The social problems were huge and the financial situation precarious.

Such problems are not fixed quickly. However, there have been signs of improvements during the months the Expert has been involved. The number of prisoners has gone down by more than two hundred and fifty as a result of pardon decisions and amendments to the Criminal Code, and should be further reduced as a consequence of further legal changes. Persons known to be conscientious objectors have reportedly not been called up for military service during the recent months. A number of persons who were threatened by eviction are reportedly in the course of being re-housed. Steps have been taken to establish an improved "equality of arms" in the court system. Key decision makers have demonstrated an interest in knowing more about experiences abroad on how to address human rights problems.

The Expert has noticed that expectations have grown for more justice and dialogue in the society. He is convinced about the crucial importance of meeting this hope. The main burden for this lies with the domestic decision-makers – it is to them the recommendations below are addressed.

However, the international community actors can contribute to a positive development. A particularly important role can be played by those international organizations which are already represented in the area and promoting human rights development; among them the United Nations agencies, the European Union, the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE). The support of the international community through both advice and strategic funding is and will be of crucial importance. Among key donors with a capability of flexible, targeted support are some governments represented diplomatically in Moldova.

One obstacle to implementation, apart from limited financial resources, is the shortage of specialized, educated competence in the key areas of reform in Transnistria. This is recognized by the key decision makers, who would welcome possibilities to send people to learn from the experiences in European and other countries.

Several agencies already involved in development projects in Transnistria would be the most suitable actors in efforts to *upgrade* the contributions to human rights promotion and protection in Transnistria, several of them based on the approach of confidence-building between both sides of the river.

Their approach of cooperating with non-governmental organizations has been successful in most cases and could therefore be recommended for the future as well.

For these agencies to be able to do so, they will need further financial support from donors.

The priority needs for possible cooperation which were identified by the Expert and his team include the following:

- Analytical overview of the situation of *women* in society; including representation in public life, education, health and employment as well as protection against violence.
- Review of progress and problems in the implementation of the law against *trafficking of human beings*. Prepare remedies which would include improved cooperation with civil society groups as well as relevant authorities outside the territory.
- Development of a strategy for the closing of the large, outdated institutions for persons with disabilities, as well as the contribution of experience on steps towards *de-institutionalization* which would be sustainable and offer a family environment in as many cases as possible for the individuals concerned.
- Follow-up of the ongoing assessment of the *child care system* providing baseline and targets for reform, and a strategy focusing on family support and family-based alternatives.
- A broad campaign for *awareness of the rights and needs of children*; assistance in the design of a training program for professionals who deal with children in their ordinary work, including the police, judges, prosecutors and social workers.
- Support for further comprehensive *public health* programs in the prevention and control of TB and HIV/AIDS involving multi-sectoral approaches and to plan for the introduction of a broad health insurance scheme.
- Help designing education approaches for *understanding of human rights* at all levels in the schools system.
- Experience-sharing on methods to ensure that no illegal force is used during arrests and interrogations.
- Reforms of the *penitentiary system* with the aim of humanizing conditions and reduce the rate of recidivism.
- A child-rights approach to juvenile justice. For this, the UNICEF-supported baseline study in 2011 is a relevant contribution.
- A strategy for ensuring competence, impartiality and non-corruption in the *judiciary*.
- Development of an improved system of *data collection and processing* with capacity to assemble key data as a basis for human rights-based reforms.
- Methodological advice on ways of developing a comprehensive *action plan* for implementation of human rights.

Within all these areas there is international experience -- based on successes and lessons from failures -- which certainly would be of interest to Transnistria.

Recommendations

1. To develop, in consultation with civil society and other relevant organisations, a comprehensive human rights action plan.
2. The Transnistrian Constitution lists a number of freedoms and other human rights and refers to the universally recognized rights. Decisions have also been taken to respect some of the international human rights treaties such as the European Convention and the two UN covenants. In line with these positive commitments, a review of ordinary *legislation* is recommended in order to address points in the laws which are not consistent with international human rights law.
3. The moratorium on the *death penalty* should be followed through with *de jure* abolition.
4. Steps should be taken to prevent and act upon any case of *torture and ill-treatment*. A policy of zero-tolerance with regard to torture and other violent methods should be given priority. This should be made

clear in the code of ethical conduct for police officers and stressed in police education and training. Recruitment procedures in the law enforcement structures should exclude unsuitable applicants. The very term “torture” should be defined in law. When a case of torture or cruel, inhuman or degrading treatment or punishment has been exposed, the culprits must be subject to criminal and disciplinary sanctions. Police officers facing credible allegations of torture should be immediately suspended from active duty, while investigations are pending. Locations used for interrogation and detention should be regularly and effectively monitored through a mechanism which is ready and equipped to receive confidential complaints.

5. The decision to reorganize the functions of *criminal investigation and prosecution* should be followed through in order to clarify the precise role of the Prosecutor. In the interest of the principle of “equality of arms”, the Prosecutor in the trial procedures should only be able to act as one party. Broader functions for the Prosecutor -- other than those of criminal prosecution and defending the public interest in the criminal-justice system -- should only be granted if certain criteria are observed, among them the principles of separation of powers, impartiality, subsidiarity and exceptionality. It would be helpful to consult the Opinions of the Venice Commission and the guidance of the Office of the High Commissioner for Human Rights (OHCHR) in this review.
6. Further measures should be considered to ensure the *integrity, independence and impartiality of the judiciary*. Procedures for the recruitment of judges should reward professional skills and high moral standards. Corrupt behaviour and other breaches of trust by a judge should be investigated and punished through a credible and competent disciplinary mechanism.
7. Serving judges should be offered *special training to update knowledge*, in particular as to the application of human rights. OHCHR training materials might be a useful basis for such training. Steps should be taken to introduce more consistently modern information techniques in the courts. Special training is needed for those judges involved in *juvenile justice* matters.
8. The *penitentiary system* should be thoroughly reformed. A first step would be to ensure that the number of prisoners be reduced; the current positive trend in this regard should be continued. Detention on remand should only be decided as a last resort when necessary in order to ensure proper investigations or to prevent the suspect from absconding if there is an obvious risk for this. Release on bail should be practiced more frequently. The pledge to develop non-custodial punishments would, if implemented, be a positive step. In the juvenile justice system incarceration should be regarded as the very last resort and an emphasis instead be put on social rehabilitation.
9. The *conditions in the penitentiary institutions* need an overhaul. Health care must be improved and the competence of the Transnistrian Ministry of Health be better utilized in such efforts. Strong measures are needed to combat the spread of infections, in particular TB and HIV.
10. A more systematic approach should be developed to *prepare inmates for a life in society* after release. This, in turn, speaks for another approach to the right of all persons in detention to keep in regular contact with family members while in custody.
11. Inhuman disciplinary measures in prisons should be abolished and staff recruited and trained to cope with the daily problems with dignity and fairness. Today’s high recidivism rate is a sign that present practices do not work well.
12. The transition from planned state economy to the new market approach with privatizations has resulted in negative consequences for some people, not least vulnerable families. These people have not always managed to protect their rights through the judicial system – the laws have not been sufficiently clear and the procedures too slow. Steps should be taken to defend the interests of those *people who have lost housing or land rights* as a consequence of these developments.
13. In the further efforts to develop the *health care system* it is important that the expertise of international agencies is sought and utilized. Standards and protocols ought to be developed in line with international recommendations and best practices. Human rights-based education and training of personnel at all levels should be a priority. The possibility of introducing a general medical insurance scheme which would include pharmaceutical products is another matter for consideration when affordable.
14. The *health of children* should be in focus, including the reduction of infant mortality and ensuring full access to immunization. Plans to improve perinatal care should be pursued.
15. *Reproductive health* care ought to include a focus on counselling for promoting safe sex and use of contraceptives to avoid that abortion is used as a method of family planning and to decrease the high

incidence of sexually-transmitted infections.

16. The *HIV pandemic* response requires investments in harm reduction programmes targeting key populations at risk and measures to change behaviours to prevent further infections. Further, there is a need of adequate treatment, care and support of those who are HIV positive; access to anonymous and voluntary blood testing with full confidentiality guarantees; as well as awareness campaigns to prevent the stigmatizing of persons living with HIV. Managements of co-infections, particularly HIV/TB, is extremely important and requires cooperation among specialized institutions.
17. The capacity to rapidly *diagnose TB infection* is crucial in the fight against the epidemic. Effective information efforts and care and support programmes are needed to avoid cases of interrupted treatment. Those with multi-drug-resistant infection must have access to the necessary medicine. Continued cooperation with civil society organizations, colleagues on the right bank and with international agencies, including with WHO, UNICEF, UNAIDS, UNFPA, UNDP, OHCHR and UNODC, is recommended.
18. The policy on *coercive medical treatment* should be reviewed with an emphasis on voluntary compliance with treatment. Detention of sick persons is an extreme measure and should only be considered on an individual basis and when absolutely necessary. Even in such situations, securing the free and informed consent of the person concerned should be the primary approach.
19. *Domestic violence* tends to be a hidden, but serious problem in most societies. To combat effectively such abuse there is a need to develop a comprehensive program which would include a dedicated Law on Combating Domestic Violence. Part of the program should be to address all physical abuse in families as well as in various institutions, including schools. There should be a zero-tolerance approach to all forms of inter-personal violence. In order to detect at an early stage signs of such violence there should be a clear policy that social workers, health personnel, teachers and other professionals in official position would be required to report suspicions of physical abuse and also psychological or emotional harassment. Police officers should be trained in responding to cases of domestic violence. Actions at community level to reduce tolerance of violence and to strengthen support networks are needed.
20. Phone helplines are useful and might be further developed as well as the availability of *shelters for victims of domestic violence, in particular women* (with capacity to receive a victim on short notice and with children as well). A policy should be established during which it will be the perpetrator rather than the victim who has to leave the common habitat when necessary in order to protect against further violence.
21. *Trafficking of human beings* is a serious problem and measures against this form of slavery should be given high priority. Broad public awareness is essential. A clear analysis of the root causes and contributing factors must be part of renewed efforts to counter trafficking of human beings. Further cooperation of local authorities is essential. Important contributions have already been given by a number of international organizations which have developed constructive work relations with NGOs engaged in this area. International norms and action plans are clear and concrete and can serve as a framework for an analysis of the legal and institutional instruments in Transnistria for efforts to bring trafficking to an end.
22. The new Transnistrian Ministry for Social Affairs and Labour has a major task to tackle in defending the rights of vulnerable people, dysfunctional families, orphans and persons with disabilities. A key point is to focus on the *right of the child to a family environment* whenever possible. This requires support to families in crisis or at risk. Social workers, teachers and others have in these situations an important role both to identify problems and to assist in their solutions.
23. In order to protect the right of *children with disabilities* to live with the family there will be in a need encourage and advise parents on how to cope. There is today a possibility for a parent to be given the role of social assistant with a smaller salary in order to care for a child with disability. Another possibility which was proposed to the Expert was a system of day care where the child with disability could stay while a parent was working – this would make life easier for parents, especially in one-parent families.
24. For the children with disabilities there should be a professional *assessment on the cognitive and locomotor capacity and potential*. This would be the basis for individual treatment plans to set and monitor progress towards motor and intellectual development.
25. Steps should be taken to make it possible for children with disabilities to *attend mainstream schools*

and classes.

26. Some of the children in the institutions come from traumatizing conditions as their parents have failed to offer a caring environment due to drug addiction, alcoholism, domestic violence or other deep social problems. This calls for a system of social work with resources for outreach and close cooperation with community organizations, school and health personnel in order to identify as early as possible children in need of supportive intervention.
27. The approach towards all *persons with disabilities* needs to be reviewed. The benchmark framework would ideally be the UN Convention on the Rights of Persons with Disabilities, with its important principles and standards. A plan for the phasing out of the old-style institutions should be developed. The plan should encourage community living, either in family environment or in other independent living arrangements. No one should be denied their decision-making right; instead of the deprivation of legal capacity, an approach should be developed in which caring, impartial assistance is provided in line with the UN Convention. Considerable efforts should be made to strengthen the rights of persons deprived of their liberty in the context of psychiatric care, in particular in the Vhvatintsi hospital.
28. It is essential to make the *public aware of the need to respect the rights of persons with disabilities*. New houses, and especially official buildings, should be constructed so that persons in wheelchairs can have access. Persons with sight and hearing difficulties should have access to necessary equipment to overcome such handicap. Other steps as well should be taken to make it possible for everyone to communicate and benefit from media, education and leisure activities. Consideration should be given to the possibility of creating a complaints mechanism with an outreach capacity to listen to problems which otherwise would not be heard or even formulated.
29. The *human rights of older people* require attention. A mapping of their particular needs is recommended.
30. Drafting of a *comprehensive anti-discrimination law* should be initiated. Such a law would define the unacceptable grounds of discrimination, such as ethnicity, language, religion, age, disability, gender, gender identity, sexual orientation and social origin. The law would also specify procedures for taking action against acts of discrimination, and thereby give protection to individuals in need thereof.
31. In order to protect the interests of population groups outside the three major ones (Moldovan, Russian and Ukrainian), there should be a consideration of the possibility to establish a *commission with members from the minorities* themselves. This may give them an effective channel to key decision makers and in the public discussion.
32. The procedures for registration of religious organizations need to be reviewed with a view of making them swift, non-bureaucratic, and non-discriminatory in practice. The presently required probation period should be abolished. Measures restricting the activities of unregistered groups should be stopped.
33. The law on military conscription should be amended to allow for a civil alternative for those whose conscience and belief prevents them from military activities.
34. Concrete steps should be taken to ensure the registration of those Muslim, Jehovah's Witnesses, evangelical Christian and other groups which exist but have not yet managed to secure official recognition through registration. The property of the Lutheran community in Camenca should be restored. The community centres of the Jehovah's Witnesses and the Baptists in Tiraspol should be ensured unhindered use and development. Public awareness of the Holocaust should be actively promoted, including on events taking place in Transnistria.
35. The Expert recommends that UNESCO World Heritage Protection status might be sought for the complex of architectural objects – including the Catholic Church, the Orthodox Church and the ruined Synagogue complex, as well as potentially also including the Jewish cemetery on the right bank and possibly other relevant objects in proximity. Such acknowledgement might *inter alia* serve to emphasize the importance of the multi-cultural past and present of the region, and thereby contribute to the celebration of diversity.
36. Two issues in the field of education have been discussed in political talks between Transnistria and the Government of the Republic of Moldova: *nostrification* of schools certificates and university diplomas issued in Transnistria but not valid internationally; and the situation of the *Latin script schools*. While the Expert is not involved in these negotiations, he expresses the hope that constructive solutions will be sought and found in the interest of the rights of those directly concerned; individuals should as far as possible be protected from the adverse consequences of the current political situation. As concerns the

Latin script schools, he recommends that the Transnistrian authorities resolve the issues about the rent of the premises (as already agreed) and find solutions on the other outstanding property problems, including the return of the two schools which were previously moved. The issue of the “licensing” could also be resolved and in a manner which would not undermine the independence of these schools.

37. An effective system of *collecting, organizing and disseminating relevant data*, disaggregated along key vectors such as gender, age, ethnicity, disability, and other relevant areas for social inclusion, is crucial for developing cost-effective programs to improve the protection of social rights as well as other human rights.
38. For the monitoring of the human rights situation the office of the *Ombudsman* is crucial and should be given all possibilities for an effective and independent work, including the necessary budgetary resources and constructive responses on demarches to the various authorities.

Appendix: Activities by the Expert; including visits and meetings

The Expert, Thomas Hammarberg, conducted three fact-finding missions to Transnistria together with UN Human Rights Adviser Claude Cahn in May, September and November 2012. During these missions, he visited the Camenca region (including Rascov and Alexandrovka villages), the Ribnitsa region (including Vhvatintsi village), the Grigoriopol region (including Glinnoe and Teia villages) and Slobozia, as well as to Tiraspol municipality (including Parcani village) and Bender/Tighina, situated on the western bank of the Dniestr river, but administrated by the Transnistrian authorities. He also visited the village of Varnița, in the security zone and under Moldovan administration.

A number of site visits were carried out, including to the following institutions: Prison No. 1 (Glinnoe), Correctional Facility No. 2 (Tiraspol), Women's Penal Colony No 3 (Tiraspol), Remand facility in prison no. 3 (Tiraspol); Penal Colony for Minors (Camenca); Lock-up in the police ward (Bender/Tighina); Boarding School (Parcani); Republican Specialized Orphanage "Baby Home" (Tiraspol); Republican Psychiatric Hospital (Vhvatintsi); Neuropsychological Institution for boys and women (Bender/Tighina) and the Neuropsychological Institution for men (Tiraspol); Ukrainian school (Bender/Tighina); Moldovan Latin script School (Tiraspol); and Moldovan Cyrillic script school (Grigoriopol).

Meetings with the *de facto* authorities included the President, the Ministry of Foreign Affairs; Ministry of Justice; State Security Committee (the Intelligence Service); Office of the Commissioner for Human Rights in Transnistria (Ombudsman); General Prosecutor; Supreme Court; Ministry of Health and Social Protection; Ministry of Education; and the Supreme Soviet. Multiple meetings were held with some of these offices. On the right bank, meetings were held with Ministry of Foreign Affairs and European Integration; Bureau of Reintegration; General Prosecutor; Ministry of Justice; Ministry of Labour, Social Protection and Family; Ministry of Health and National Bureau for Statistics.

Meetings with a number of civil society organizations as well as religious and ethnic communities were held, including with the NGO Mothers for Human Rights; NGO Common Home; NGO Centre for Human Rights Protection in Transnistria; NGO Promoting Effective Justice for Fair Trail; NGO Independent Institute of Rights of Civil Society; NGO Newspaper People and their Rights; NGO Interaction; NGO Perspectiva; NGO Resonance; NGO Society of Bulgarian Culture Rodoliubets; NGO Romani Alliance; NGO for Roma Rights; Association of Families of Children with Disabilities TASDI; NGO Alye Parusa; NGO PromoLex (Human Rights); NGO CREDO (Human Rights); NGO Hope for Children; NGO Chiutkosti; NGO Association of People with Special Needs; NGO Women with Disabilities"; NGO Center for Healthy Future (Centr Zdorovoe Buduscheie); NGO Apriori; NGO Support for HIV-positive "White Rose"; NGO Center for Reproductive Health; Bar Association in Transnistria; NGO Center for Rehabilitation and Consultation "OSORTS"; and NGO Center for Legal Initiatives.

Meetings were held and visits conducted to religious communities including Jehovah's Witnesses, Jewish community, Muslim community, Catholic community, Baptist community and Lutheran community and with ethnic communities: Polish, Romani, German, Bulgarian and Ukrainian. The expert also met with farmers dispossessed of their land as a result of privatization measures as well as with persons threatened with eviction from their housing. Visits were also carried out involving victims of human rights abuses, as well informal civil society groups working on issues with human rights implications. In a number of cases, multiple meetings were held, to ensure verification of facts and to seek feedback on preliminary findings.

Lectures and presentations on human rights were held for the following groups: public lecture for students in Law and International Relations at the Transnistrian State University in Tiraspol; presentation for the civil society at the OSCE premises; presentation for young diplomats in Tiraspol; presentation at the Supreme Soviet for 43 members.

Meetings were also convened with members of the diplomatic community, including with embassies with a standing representation in the Republic of Moldova, Council of Europe, the European Union, and Organization for Security and Co-operation in Europe. The United Nations Country Team, as well as individual UN agencies based in Moldova, were regularly consulted and involved in aspects of the mission's work.