



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2562nd meeting

Held at the Palais Wilson, Geneva, on Thursday, 10 August 2017, at 3 p.m.

Chair: Ms. Crickley
later: Mr. Khalaf (Vice-Chair)

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The meeting was called to order at 3 p.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined ninth to eleventh periodic reports of Tajikistan (CERD/C/TJK/9-11; CERD/C/TJK/Q/9-11)

1. *At the invitation of the Chair, the delegation of Tajikistan took places at the Committee table.*
2. **Mr. Shohmurod** (Tajikistan), introducing the combined ninth to eleventh periodic reports of Tajikistan (CERD/C/TJK/9-11), said that, since gaining independence, his country had sought to foster a democratic society in which human rights and freedoms were valued highly. Dedicated governmental bodies had been set up to monitor the implementation of the international human rights treaties to which Tajikistan was a party. Recommendations made by the human rights treaty bodies and within the framework of the universal periodic review were studied carefully in consultation with civil society, and the Government adopted national action plans providing for legislative and other measures for their implementation. One such plan provided for the preparation of a comprehensive anti-discrimination bill.
3. A broad legal framework was in place to ensure that all citizens enjoyed equal rights, regardless of their sex, race, ethnicity, language, origin, financial or employment position, place of residence, attitude towards religion, beliefs or membership of voluntary organizations or of other social groups. The civil, political, social, economic and cultural rights and freedoms of ethnic minorities were protected in accordance with generally recognized international human rights standards. The Criminal Code and the Code of Administrative Offences established liability for violations of equal rights. Under procedural legislation, all citizens, regardless of their race, were entitled to defend their rights and interests.
4. Discrimination in all forms was prohibited, especially in relation to the enjoyment of the rights enshrined in article 5 of the Convention. Pursuant to article 10 of the Constitution, the Convention, including its definition of racial discrimination, was a part of the domestic legal order and could be applied directly. In addition, the principle of non-discrimination was set forth in all the country's legislative acts. That principle underpinned the 2017 Health-Care Code, for example. The judicial and other authorities had not received any complaints of discrimination, but State bodies nevertheless conducted activities, including television and radio broadcasts, to raise awareness of citizens' rights and obligations. A legal education and training programme for 2009-2019 and a human rights education programme for 2013-2020 provided for a range of measures and informational events aimed, inter alia, at raising awareness of human and citizens' rights, freedoms and obligations.
5. Great emphasis was placed on tolerance towards different ethnicities, cultures, languages and faiths, and different ethnicities had coexisted peacefully in Tajikistan for many centuries. Members of around 100 ethnic groups and peoples currently lived in the country. Tajiks represented 84.3 per cent of the population, Uzbeks 12.2 per cent, Kyrgyz 0.8 per cent, Russians 0.5 per cent, Turkmen 0.2 per cent, Tatars 0.1 per cent, and other ethnicities 1.9 per cent.
6. The Education Act contained provisions relating to inclusive education. In areas with a large population of a particular ethnic minority, the language of that ethnic minority was used in local general education institutions, cultural institutions and other communal facilities. Tajik was the language of instruction for nearly 2 million students in general education institutions; Uzbek for some 150,000; Russian for some 110,000; Kyrgyz for nearly 10,000; and Turkmen for nearly 2,000. Seminars and training courses were held for general education teachers in which instruction was delivered in the language of an ethnic minority.
7. Tajikistan had been one of the first post-Soviet States to accede to the Convention Relating to the Status of Refugees. Refugees and asylum seekers enjoyed the same rights as

citizens of Tajikistan, other than as provided for by law. In August 2014, the Refugee Act had been amended to provide for the establishment of specialized centres to accommodate asylum seekers on a temporary basis. Moreover, a procedure had been established to grant asylum to persons aged under 18 years, and the rights of refugees had been expanded significantly. With the assistance of the Office of the United Nations High Commissioner for Refugees, the Government had developed a consolidated database for the registration of refugees and asylum seekers. There were currently over 2,100 persons with permanent refugee status, some 100 asylum seekers and some 750 stateless persons who had been granted permanent residence and had received a stateless person's residence permit. Most of the refugees and asylum seekers in Tajikistan were citizens of Afghanistan.

8. The Constitutional Act on Citizenship had been adopted in 2015. It granted the right to apply for Tajik citizenship to foreign citizens and stateless persons aged over 18 years, regardless of their ethnicity, race, sex, language, religious affiliation, political convictions, education and social or financial position, as well as to persons who had been granted refugee status and who had subsequently resided in Tajikistan for an uninterrupted period of five years.

9. Pursuant to article 26 of the Constitution, all persons had the right freely to determine their attitude towards religion, to profess any religion or none, and to take part in religious customs and ceremonies. There were nearly 4,000 religious organizations in the country, thousands of mosques and nearly 70 non-Islamic places of worship.

10. The Trafficking in Persons and Assistance to Victims Act of 2014 established an organizational and legal basis for combating trafficking in persons. Funding for the measures provided for under the Act would come from the State Fund for Assistance to Victims of Trafficking in Persons, which financed the activities of specialized governmental and non-governmental organizations and supported recognized victims of trafficking. A national plan to combat trafficking in persons for the period 2016-2018 had been adopted.

11. **Mr. Yeung Sik Yuen** (Country Rapporteur) said that the State party had submitted its periodic report in advance of the deadline. Regrettably, however, the report was rather short and thin on information. Moreover, the State party had not updated its common core document in over 10 years. The Committee would appreciate information on the civil society organizations and independent experts involved in the preparation of the report and on the nature of their involvement. It would also be helpful to learn whether the Commissioner for Human Rights (Ombudsman) had been awarded A status following the 2015 amendment of the Commissioner for Human Rights Act and how many petitions it had received and processed since 2012.

12. It had proved difficult to consult the disaggregated demographic data alluded to in paragraph 6 of the report. According to data compiled by the United Nations Statistics Division, however, the main ethnic group, Tajiks, had increased in size in both absolute and relative terms between 2000 and 2010, whereas the Uzbek, Kyrgyz and Russian ethnic groups had all decreased in size. Moreover, according to the statistics provided by the Government in the report, access to instruction in minority languages had declined. He would be grateful if the delegation could comment on the possible causes of those two developments.

13. Unfortunately, there was no information in the report on progress towards the development of comprehensive anti-discrimination legislation and a national plan to combat discrimination, and no information had been provided on the participation of stakeholders in that process. In addition, colour, descent and nationality did not feature in article 17 of the Constitution, which had been cited as the main anti-discriminatory legal provision. In that context, he would reiterate the Committee's recommendation, as contained in its concluding observations on the combined sixth to eighth periodic reports of Tajikistan (CERD/C/TJK/CO/6-8), that a definition of racial discrimination in line with the Convention, covering all fields of public and private life, should be incorporated into domestic legislation. With reference to the period since 2012, he wished to know whether any cases had been brought in which the courts had applied the Convention and whether

measures had been taken to raise awareness of applicable international norms, in particular the Convention, among judges, prosecutors and lawyers.

14. The full extent of the problem of statelessness in Tajikistan was not yet known, although data collected on the registered stateless population suggested that the majority of persons without identity documents were women and children living in rural areas. The Committee welcomed the Government's decision in late 2015 to draft an amnesty law that would exempt persons residing in Tajikistan without a valid identity document from the applicable administrative and criminal penalties. It would be useful to receive an update on the status of that law.

15. The State party asserted in its report that there was no need to amend domestic legislation to bring it into compliance with article 4 of the Convention, as the penalties provided for in article 143 of the Criminal Code were a sufficient deterrent against racial discrimination. He continued to harbour doubts as to whether article 143 in fact prohibited all the offences covered by article 4 of the Convention. He had also been surprised to learn that the courts had not heard any cases related to racial discrimination. Such discrimination surely existed, however, as it did in every country in the world; non-reporting and non-prosecution of related offences were not necessarily indicative of its absence.

16. The strict enforcement of Government Decision No. 325 of 26 July 2000, which limited the freedom of movement and residence of asylum seekers and refugees and restricted their ability to access employment, health care, education and other services, created a significant risk of refoulement. Moreover, the Committee had been informed that individuals were sometimes deported pursuant to administrative decisions that pre-empted pending judicial decisions. Regrettably, the reasons provided by the State party to justify the adoption of Decision No. 325 appeared to be derogatory and discriminatory towards refugees and asylum seekers. While he welcomed the decision to shorten the list of locations where refugees and asylum seekers were forbidden from residing, he would like to know what further measures the State party envisaged taking to end the stigmatization of those groups and lift the restrictions on their freedom of movement. He urged the State party to consider repealing both Government Decision No. 325 of 26 July 2000 and article 499 (3) of the Administrative Code, which required strict application of the Decision.

17. The Committee had received information to the effect that Russian, Soviet-era and Turkic names were often replaced with Tajik names without prior consultation with local communities, resulting in protests and a reduction in the country's linguistic diversity. In the north of Tajikistan, in particular, dozens of settlements with Turkic names had reportedly been renamed to decrease the visibility and influence of the Uzbek language. He would appreciate a comment from the delegation on the veracity of that information.

18. The Committee had also been given to understand that the distinct language and culture of the Pamiri, Yaghnobi and Roma communities were not duly recognized. Pamiris made up most of the population of the Gorno-Badakhshan Autonomous Region, and the region was home to a number of languages and dialects belonging to the Pamiri language group, including Shughni, which remained the local population's everyday language. Nevertheless, Pamiri languages had no place in the education system or in State institutions or official documents. He wondered why that was. There had apparently been an increased outflow of Pamiris from Gorno-Badakhshan as a result of mistrust between Pamiris and Tajiks, coupled with the failure to conduct an effective investigation into violent clashes between government forces and militants in the region. He would like to know what measures were being taken to ensure the effective recognition and enjoyment of the linguistic, religious and cultural rights of Pamiris.

19. The delegation might also explain why no disaggregated data had been collected on the Pamiri population during the 2010 census. Had Pamiri and Yaghnobi groups been subsumed under the Tajik population, whereas Roma had been given their own category in the census? If so, why had the State party drawn that distinction? The language and culture of the Yaghnobi people were under threat of extinction and the small population remaining in the Yaghnob Valley, the group's ancestral home, seemed not to receive the necessary support from the Government. For example, children living in the Yaghnob Valley

reportedly had limited access to secondary education because Yagnobi was not a language of instruction and was not taught in the region's schools.

20. He had been surprised to learn that the Government had concluded that there was no need to adopt a strategy to improve the situation of Roma in Tajikistan, or to protect them from discrimination and stigmatization, because discrimination on the basis of ethnicity or faith was prohibited and members of different racial and ethnic groups enjoyed the same legal rights as Tajik nationals. It would be useful to hear more about the reasoning behind that conclusion, particularly in the light of reports that Roma groups faced a number of problems arising from structural discrimination, including lack of access to education, employment and decent housing. The fact that the State party had undertaken campaigns to promote tolerance, understanding and solidarity in respect of the Roma community would appear to indicate that it was aware of those problems.

21. To end on a positive note, he wished to commend the State party for having adopted the Constitutional Act on Citizenship, the Act amending the Refugee Act and the Trafficking in Persons and Assistance to Victims Act.

The meeting was suspended at 4 p.m. and resumed at 4.15 p.m.

22. *Mr. Khalaf (Vice-Chair) took the Chair.*

23. **Mr. Kut** said that, in its previous concluding observations (CERD/C/TJK/CO/6-8), the Committee had requested the State party to provide, within one year, information on its follow-up to recommendations relating to the need for measures to improve the situation of Roma and of refugees, asylum seekers and stateless persons. Unfortunately, that information had not been received within the requested time frame. He wished to remind the delegation that follow-up reports were useful not only to the Committee, but also to the State party, providing it with an opportunity to show improvement through prompt action in certain areas. The Committee would like to receive the next follow-up report by August 2018.

24. **Mr. Avtonomov**, welcoming the timely submission of the State party's periodic report, said that it was his understanding that Roma residing in Tajikistan did not refer to themselves as such but as Jughli, in Tajik, or as Lyuli, in Uzbek, as many of the latter group had lived in Uzbekistan and had moved freely between the two countries before settling in one or the other. Although only scant information was available on Jughli groups, he understood that their living conditions were precarious and that many still led a nomadic lifestyle. The State party should consider appointing a cultural mediator to conduct a detailed study on the situation of the Jughli population. In that connection, he wished to draw the delegation's attention to the Committee's general recommendation No. 27 on discrimination against Roma. In addition to the Jughli and the Lyuli, there were a number of other Roma groups living in Tajikistan, each with a distinct language, culture and lifestyle. Any strategy to improve the situation of Roma in Tajikistan would need to take into account those specificities.

25. He would like to know whether the State Committee on Language and Terminology had followed through on its 2015 commitment to set up a working group to raise the status of the Pamiri and the Yagnobi languages and to provide courses in those languages to anyone wishing to study them. He also wondered whether the State party had considered adopting a specific programme to ensure the preservation of Pamiri languages, some of which were at risk of disappearing. Speakers of Pamiri languages, who were identifiable by their accent when speaking Tajik, reportedly felt that they were treated differently and considered it unfair that they were allowed to use their native languages only in private. Speakers of Uzbek, a Turkic language, also faced challenges on account of linguistic differences. To support the notion of an ethnically diverse but socially united State in which all cultures felt at home, the Government should take measures to eliminate linguistic prejudices and foster an understanding of the historical contributions made by all the various communities living in the country.

26. **The Chair** said that the rich linguistic heritage of Tajikistan was of great value to humanity and deserved protection.

27. **Mr. Murillo Martínez** said that he would like data on life expectancy and mortality among the general population, minority ethnic groups and the prison population. He also wished to know how HIV infection affected the life expectancy of minority groups such as Uzbeks and Roma. He understood that minorities were often overrepresented in prisons and would appreciate statistics on the prison population, disaggregated by ethnic group. He would also be interested to learn about any mechanisms in place to enable victims of human trafficking to obtain redress. In addition, he wished to know whether domestic legislation provided for reversal of the burden of proof, which could be a very effective tool in the fight against racial discrimination. Lastly, he would appreciate information on surveys and other measures taken to monitor or assess racial discrimination in the country.

28. **Mr. Calí Tzay** said that the Committee would welcome details on the disaggregated data collected in the 2010 population census; perhaps those data could be included in an updated version of the State party common core document. Racial discrimination was addressed in numerous disparate laws, and he wondered whether the Government had plans to consolidate all the relevant provisions into a single comprehensive anti-discrimination law. He also wondered why there had been no judicial proceedings on discrimination-related matters and whether greater awareness-raising among judiciary and law enforcement authorities was needed. Although discrimination on the basis of ethnicity or faith was prohibited in Tajikistan, the Committee felt that a specific strategy was needed to protect Roma communities from persistent marginalization. The Committee also remained concerned about restrictions on refugees' freedom of movement. In that connection, he wished to know whether the Government intended to abolish the prohibition against refugees taking up residence in Dushanbe and Kujand. He would also like to know whether there were plans to amend the Civil Code to lift the restrictions on the right of foreigners and stateless persons to marry Tajik women.

29. **Mr. Amir**, noting that Tajikistan had seen numerous occupations and the flourishing of various civilizations over the centuries, asked whether monuments and other testaments to the scientific and cultural legacy of Arab Muslim peoples could be found in the country.

30. **The Chair**, welcoming the numerous anti-discrimination laws enacted in the State party, said that it would nevertheless be advisable to put in place a comprehensive, overarching piece of legislation on racial discrimination, which should include a definition in keeping with article 1 of the Convention. He wondered whether constitutional law took precedence over ordinary law in the State party. Given that, upon ratification, the Convention had become part of the domestic legal corpus, it would be interesting to know whether it had been invoked in the Tajik courts.

31. He would welcome information on the steps being taken to reinforce the Government's laudable efforts to combat human trafficking. In particular, he would like to hear more about the supplementary plan of action to enhance those efforts. It would also be helpful to know whether the results of the Comprehensive Programme to Combat Trafficking in Persons 2014-2016 had been evaluated. Steps had also been taken with regard to the criminalization of pornography; in that connection, he wondered whether the Government intended eventually to enact legislation on cybercrime.

32. The State party had also taken measures with a view to regularizing the legal status of persons who were unlawfully present in the country; he would like to know whether the number of such persons had decreased since those measure had been introduced. In addition, he would appreciate further details on the Constitutional Act on Citizenship, including information on whether any refugees had been granted citizenship and on whether Tajik citizenship was available to stateless persons. Lastly, he wished to hear more about the participation of civil society in the preparation of the periodic report, and he would welcome information on the process for establishing NGOs and other civil society bodies.

33. **Mr. Yeung Sik Yuen** said that, under the Family Code, foreign nationals wishing to wed Tajik citizens must have been resident in the State party for at least one year prior to marriage and were obliged to sign a contract stipulating that they must buy their spouse and children a house or apartment. However, it was extremely difficult for non-nationals to purchase property in Tajikistan. Consequently, Tajik citizens wishing to marry refugees or

asylum seekers frequently opted for an unofficial, Islamic *nikah* marriage, which did not confer the same rights and protections as a registered civil ceremony. The State party might wish to considering revising domestic legislation in that regard.

34. The Government had pointed to a number of legal provisions in various pieces of legislation, which, in its view, adequately covered racial discrimination, thus obviating the need for a specific law on the issue. However, article 17 of the Constitution did not make specific reference to the term “discrimination”, nor did it cover all the motives for discrimination provided for in the Convention. In addition, although the Committee had noted that article 7 of the Labour Code, on equal opportunities, provided a definition of racial discrimination that was close to the one set out in article 1 of the Convention, the Labour Code mainly focused on employment relations. It would be more practical to adopt a separate law on racial discrimination than to attempt to bend employment legislation to address individual complaints of discrimination. Furthermore, article 143 of the Criminal Code did not specifically focus on discrimination and it was not sufficiently comprehensive in scope. He would therefore reiterate the Committee’s recommendation that the State party should adopt comprehensive legislation specifically on racial discrimination, in line with article 1 of the Convention.

35. **Mr. Shohmurod** (Tajikistan) said that the national authorities had been actively discussing the possibility of introducing a law specifically dealing with racial discrimination for several years and continued to do so. Indeed, a recommendation on the introduction of such legislation had been included in a recent official report. The Constitution had primacy over all other domestic legislation, including with regard to human rights. Under its article 10, international conventions to which Tajikistan was a party were recognized as a part of the domestic legal system, and in 2013 the Supreme Court had ruled that the national courts and legal counsel could refer directly to the provisions of such international conventions if they were not reflected in domestic legislation.

36. To his knowledge, no petitions had been submitted to the Commissioner for Human Rights (Ombudsman); if there had been, they might have formed the basis for an analysis aimed at identifying any gaps in the existing legislation. The fact that there had been no cases of racial discrimination brought before the national courts did not, of course, mean that such discrimination did not exist in Tajikistan. The Government was working with civil society to raise awareness of the issue and to create the required conditions for the implementation of the Convention and other international human rights instruments. While domestic legislation comprehensively prohibited racial discrimination and provided citizens with the opportunity to defend their rights, the national authorities were open to the development of new legislation if needed.

37. As to the question posed by Mr. Amir, historical Arab influence in Tajikistan was reflected in the important position occupied by Islam in national life and by the teaching of the Arabic language in Muslim religious schools. Some of the inhabitants of the south-western part of the country claimed Arab ancestry.

38. **The Chair** said that information on efforts to disseminate the Convention and promote tolerance at the grass-roots level would be welcome.

The meeting rose at 5.55 p.m.