



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Summary record of the 2171st meeting

Held at the Palais Wilson, Geneva, on Wednesday, 8 August 2012, at 3 p.m.

Chairperson: Mr. Avtonomov

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The meeting was called to order at 3.10 p.m.

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

Sixth to eighth periodic reports of Tajikistan (CERD/C/TJK/6-8; CERD/C/TJK/Q/6-8; HRI/CORE/1/Add.128)

1. At the invitation of the Chairperson, the delegation of Tajikistan took places at the Committee table.
2. **Mr. Mengeliev** (Tajikistan) said that Tajikistan had adopted a legal framework that guaranteed equality among all individuals, regardless of their race, ethnic origin, language, financial, material or professional situation, and religion. While there was no definition of racial discrimination in domestic legislation, it was important to note that the prohibition against racial discrimination appeared in several laws that protected human rights and freedoms and that article 10 of the Constitution provided that the international instruments Tajikistan had ratified took precedence over domestic law. Members of ethnic minorities enjoyed all the rights enshrined in domestic legislation, including the right to participate in elections and form organizations as well as the right to freedom of expression and religion. With a view to guaranteeing the right of all citizens, including members of ethnic minorities, to maintain and develop their cultural identity, the Cultural Development Programme 2008–2015 had been launched and eight programmes covering different aspects of cultural life were being implemented. The Government cooperated actively with civil society organizations. In 2011, it had organized a round table on the implementation of the Convention with participants from civil society, ministries, relevant public bodies and NGOs. An NGO coalition had been set up in the country and was currently in operation.
3. As at 1 January 2012, the total population had stood at 7.8 million, of which 84.3 per cent was Tajik, 12.3 per cent Uzbek, 0.8 per cent Kyrgyz, 0.5 per cent Russian, 0.2 per cent Turkmen, 0.9 per cent Laks, 0.5 per cent Kongrat, 0.07 per cent Barlos, 0.01 per cent Ukrainian, 0.09 per cent Tatar, 0.03 per cent Roma, and other minorities. Of the 1.7 million children who attended general education schools, 78.6 per cent were taught in Tajik, 17.6 per cent in Russian, 2.8 per cent in Uzbek, 0.7 per cent in Kyrgyz, 0.2 per cent in Turkmen and 0.04 per cent in other languages. The fact that Uzbekistan had stopped using the Cyrillic alphabet in favour of the Latin alphabet was a problem for Uzbek schools in Tajikistan because they were still using textbooks written in Cyrillic (since that was the only alphabet their students knew) and they were unable to obtain textbooks in Uzbekistan, because all the textbooks published there used the Latin alphabet. Nonetheless, Uzbek schools had enough textbooks in Cyrillic to teach students from the first to the eleventh grade. Nationwide there were some 2,700 Tajik schools, 18 Russian, 282 Uzbek, 37 Kyrgyz and several mixed schools.
4. The Constitution enshrined the right to form organizations and join political parties and 24 national minority associations had been registered nationally. Great importance was attached to freedom of religion, which was guaranteed under article 26 of the Constitution, and significant achievements had been made in that regard since the country's independence. Among the almost 4,000 religious organizations, 74 of the founders were members of ethnic minorities. In total, there were almost 4,000 mosques in the country and 74 non-Muslim places of worship. The number of religious associations was distinctly higher in Tajikistan than in the other former Soviet republics, in that there was one religious association for every 1,900 individuals. Tajik legislation made no distinction between the faiths and did not allow one religion to be imposed on the entire population. Freedom of expression was also guaranteed by the Constitution. It was illegal to censure or persecute persons or media that criticized the Government. There were 320 newspapers in the country, 29 of which were published in Russian, 91 in Tajik and Russian, 7 in Uzbek, and the

remainder in other languages or combinations of languages. Television and radio programmes were broadcast in Tajik, Russian, English, Arabic, Persian, Uzbek and Hindi.

5. To date, no complaints of racial discrimination had been brought before the courts or other competent bodies, but that did not mean that victims were unaware of their rights, that they lacked trust in the law enforcement services, or that judges were not sufficiently alert to offences involving racial discrimination. The law enforcement agencies and judicial bodies conducted regular information campaigns, in the media and in other forums, in order to raise public awareness of the rights enshrined in the Constitution and domestic legislation. Similarly, the Government had approved the Programme for Legal Education and Training for Tajik Citizens 2009–2019, which included a number of measures aimed at improving people’s knowledge of legal issues. Under article 2 of the Civil Service Act, all Tajik citizens had access to civil service posts regardless of their ethnic origin, race, sex, language, religion, political convictions and social or material situation. There were 19,255 civil servants, of whom 17,492 were Tajik, 129 Russian, 1,408 Uzbek and 175 Kyrgyz, while 51 were members of other national or ethnic minorities.

6. As for the accession of Tajikistan to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, he said that implementing the provisions of those instruments was extremely costly and at the current time, Tajikistan could not ratify them as it did not have the means to fulfil the obligations they entailed. Nonetheless, the reduction of statelessness was a central concern for Tajikistan. In 2007, it had organized a regional conference on that subject, attended by participants representing public bodies and NGOs. Moreover, a new bill on nationality was being drawn up, which included several measures on preventing and reducing statelessness, as well as new provisions regulating the granting of Tajik nationality.

7. Turning to the recommendation made by the Committee in its previous concluding observations (CERD/C/65/CO/8, para. 13) concerning limitations of freedom of movement for refugees, he recalled that Tajikistan was a party to the Convention relating to the Status of Refugees and its Protocol. The Government had issued the decree prohibiting asylum seekers and refugees from living temporarily in a number of localities in the interest of security and public order and to protect the rights and interest of the population. As for the Committee’s recommendation that refugees that complied with the necessary legislative requirements should be granted Tajik citizenship without discrimination (*ibid.*, para. 14), he said that, in accordance with article 23 of the Constitutional Act “On Citizenship”, foreigners and stateless persons who wished to obtain Tajik citizenship had to have resided permanently in Tajikistan for five years, or two and a half years in the case of recognized refugees. The deportation of foreigners and refugees could be decided only by the security forces, with the approval of the Office of the Procurator-General, but the decision could be appealed before the courts. Since 2009, some 588 foreigners had been deported from the country. The majority of them had been expelled because they had broken the law, finished serving a prison sentence or been granted an amnesty for an offence committed on Tajik territory.

8. With regard to training for judges and judicial staff, he said that the second Judicial Reform Programme for 2011–2013 included numerous training and capacity-building activities for magistrates and staff of judicial bodies. The Organization for Security and Cooperation in Europe (OSCE) and an NGO coalition were also continuing to provide training to prison staff on international human rights instruments.

9. **Mr. Diaconu** (Country Rapporteur) said that Tajikistan had made significant legislative and institutional progress over the last 10 years with the adoption of a Criminal Code, a Code of Criminal Procedure and a Code of Administrative Offences, as well as the appointment of a human rights Ombudsman. The State party played an active role in regional and international efforts to protect human rights as a party to international legal

instruments. He requested data on the largest ethnic groups in the country. He would also appreciate information on the competence and structure of the autonomous provinces and rural communities, given that most ethnic groups lived in rural areas. He noted with concern that the State party appeared to hold the Roma responsible for their worrying situation and said that the Government should address the root causes of the problems, giving the Roma access to employment, education, social protection and health care in a spirit of tolerance, understanding and solidarity.

10. Domestic legislation did not include a definition of racial discrimination, except for one definition close to the one in the Convention in the Labour Code, which applied only to employment. While the State party report indicated that judges could directly invoke the provisions of the Convention, there were no specific cases in which the Convention had been invoked. The apparent absence of racial discrimination in the State party was all the more surprising given that 137 ethnic groups lived side by side in the country with refugees, migrants and asylum seekers. The Committee wished to know whether the complaints brought in Tajikistan for slander or insult concerned acts of a racist nature. He noted with satisfaction that the Criminal Code established criminal liability for inciting ethnic hatred and setting up extremist associations, and provided for aggravating circumstances for racially-motivated offences. However, it did not consider incitement to racial hatred, racially-motivated acts of violence against any person or group or assistance to racist activities as offences, contrary to the requirements of article 4 of the Convention.

11. Noting that the Code of Administrative Offences prohibited the production, transport and dissemination of propaganda material that incited racial or ethnic hatred, he asked what penalties were incurred. He wished to know whether the Criminal Code and the Code of Administrative Offences provided for the same sanctions for the crimes listed in article 4 of the Convention. He would also appreciate information on the penalties for violations of the legislation concerning television and radio broadcasting, which prohibited the dissemination of messages that advocated racial or ethnic hatred.

12. The periodic report contained a great deal of data on the representation of persons belonging to ethnic groups in different spheres of public life, but they seemed to be underrepresented in Parliament. He requested information on the enjoyment of economic and social rights by ethnic groups and the rates of unemployment and illiteracy among those groups. He welcomed the legislation on the official language of the State, which entitled national and ethnic groups to use their mother tongue without restriction, and he encouraged the State party to intensify its efforts to ensure their right to be taught in their own language by training teachers in the languages concerned and providing the necessary textbooks.

13. He encouraged Tajikistan to implement the recommendations made under the universal periodic review to put in place a human rights institution that was in accordance with the Paris Principles or to extend the competence of the Commissioner for Human Rights. He requested clarification of the provisions of the 2008 Constitutional Act on Citizenship, which simplified the procedure for obtaining Tajik nationality. He asked how many stateless persons there were in the country and how the Government planned to resolve the problem of statelessness. He urged Tajikistan to accede to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness. The many refugees and asylum seekers the State party received did not have the right to live in Dushanbe or Khūjand because they could endanger public order, which constituted discrimination against them. Furthermore, they did not have the right to work, which violated their right enshrined in the 1951 Convention relating to the Status of Refugees. He was surprised that, under an amendment to the Family Code, foreigners and stateless persons who wished to marry a Tajik citizen were required to provide their spouse with a dwelling, given that they were prohibited by law from acquiring real estate.

Tajikistan should also review the situation of refugee children and ensure that it complied with the relevant international standards.

14. He noted with concern that, despite acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons and adopting measures at the national level, the State party was still a country of origin and transit for human trafficking, including of members of ethnic groups, refugees and asylum seekers. Tajikistan should take further measures to comply with article 7 of the Convention. He wished to know whether all schools had a human rights education curriculum. In conclusion, he said that despite all the difficulties it faced, the State party had the ability to develop the legislative and institutional framework needed in order to fully implement the Convention, particularly given its rapid economic growth.

15. **Mr. Murillo Martínez** asked about the application of the provision of the Criminal Code that criminalized incitement to racial, national or religious hatred and requested additional information on relevant cases that had been brought. He also wished to know about the results achieved by the government programme to combat HIV/AIDS and asked to what extent ethnic groups were affected by that disease. He took note of the State party's efforts to extend access to education to ethnic minorities and particularly wished to know how many Afghan children attended school. He also requested information on human rights education in Tajikistan.

16. **Mr. de Gouttes** requested additional information on the establishment of a short-stay reception centre for asylum seekers, as mentioned in paragraph 189 of the State party's periodic report. He asked whether the issue of the determination of citizenship of Tajik nationals who had returned to the country after the civil war had been resolved. He would welcome information on the current status of the bill to ratify the Convention relating to the Status of Stateless Persons.

17. While the Criminal Code criminalized incitement to ethnic or religious enmity and participation in extremist associations and provided that a racial motivation for a crime was an aggravating circumstance, the implementation of those provisions appeared to be disappointing, particularly owing to the lack of a definition of "racial discrimination". He would appreciate the delegation's comments in that regard. He would also welcome clarification of the content of the programme that was being developed to improve the situation of the Roma in the country. He asked whether the Office of the Commissioner for Human Rights functioned in accordance with the Paris Principles.

18. **Mr. Kut** asked whether the Government Commission on International Human Rights Obligations, which had been set up in 2002, was a standing body and whether it was responsible for examining cases of racial discrimination. He welcomed the increased social mobility and participation of minorities in public life and wished to know whether the improvement in the situation was the result of a public policy in favour of the development of minorities. He asked whether article 62 of the Criminal Code, which provided that a racial or religious motivation for an offence was an aggravating circumstance, had already been invoked before the courts. He also wished to know how many stateless persons there were in the State party and whether it had established a policy and taken specific measures to resolve the problem of statelessness. Additional information would also be appreciated on the role and the powers of the Commissioner for Human Rights and the number of cases relating to discrimination that had been brought before the Commissioner.

19. He wished to know whether measures had been taken to address the problem of violence against religious and ethnic minorities, which had been raised during the consideration of the previous periodic report in 2004 (CERD/C/463/Add.1; CERD/C/SR.1658). He asked if any complaints concerning discrimination or incitement to racial hatred had been brought before the courts. He noted that translating Tajik school

textbooks into Uzbek should not be a problem, given that a simple transliteration from one alphabet to the other was all that was needed.

20. **Mr. Vázquez** asked whether the judicial bodies of the State party had received any complaints of discrimination since the periodic report had been written, and whether criminal proceedings had been instituted under article 189 of the Criminal Code, which prohibited incitement to ethnic, racial, local or religious enmity. He also asked whether the courts of the State party had already invoked the Code of Administrative Offences in order to punish acts that incited racial tension.

21. **Mr. Thornberry** said that it was a shame there were no NGO representatives present for the consideration of the State party report, given that their participation in the Committee's work would enrich the debate with the delegation. He requested additional information on the definition of acts that constituted aggravating circumstances within the meaning of article 62 of the Criminal Code, particularly the concepts of religious fanaticism and reprisals. Having read in paragraph 16 of the report that the 1996 Television and Radio Broadcasting Act prohibited the dissemination of messages that "propounded [...] exclusivity", he requested clarification of the exact meaning of that phrase. He asked whether the Penal Enforcement Code of 2001, which established the principle of equality of convicted persons before the law, contained provisions that took prisoners' special requirements into account, particularly dietary needs or the observance of religious rites. He would welcome additional information on paragraph 69 of the report, which indicated that the State could intervene "when individuals or religious associations abuse their religious rights and freedoms and act to the detriment of another citizen or religious association".

22. **Ms. Crickley** recalled that the absence of complaints concerning racial discrimination could reflect a lack of confidence in the authorities. She would welcome the delegation's comments on the effectiveness of the measures that had been taken to raise awareness about their rights among groups that were vulnerable to discrimination. She asked whether NGOs had participated in the preparation of the report and whether the State party planned to involve them systematically in the preparation of reports in the future. She wished to know whether the women who sat on the Local Councils of People's Deputies belonged to ethnic minorities and what specific measures were implemented to encourage minorities to participate in political life in general.

23. **Mr. Calí Tzay** asked whether the State party was taking measures to promote the use of all the languages that were spoken in the country. He would welcome clarification of the distinction the State party drew between the terms "ethnic groups", "peoples" and "of ethnic origin" and how that distinction was reflected when developing policies. He wondered about the continued use of the concept of ethnic origins since the country had gained its independence and asked for additional information in that regard.

24. **Mr. Kemal** asked how many complaints had been lodged by foreigners who had been issued with deportation orders and how many had been successful. He also wished to know how much Dari and Farsi was spoken in radio and television programmes.

25. **Mr. Lindgren Alves** said he was concerned that the State party was justifying all sorts of action taken against terrorists under the guise of the fight against terrorism. He therefore requested details of the interrogation techniques that were used in the fight against terrorism. He asked what the State party meant by the re-registration of religious associations following the entry into force of the Act on freedom of conscience and religious associations. He asked the delegation to confirm whether there was indeed an average of one religious organization for every 1,900 inhabitants in the country, which seemed to be a very high figure.

26. **The Chairperson**, speaking as a member of the Committee, recalled that discrimination was not always a deliberate State policy but could be disguised in the form

of structural or cultural discrimination that affected certain sectors of the population. Data on the income and levels of unemployment and education of certain groups were a good indicator of any discrimination they might be suffering. He requested additional information on the role Tajikistan had played in the regional agreements to which it was a party, especially those concerning human rights. He recalled that, even though the Committee did not address issues of religion, membership of a religion was closely linked to ethnicity. He asked about the risk of hidden discrimination against people whose religions were not officially recognized or whose religious organizations were not registered. He wished to know whether there were Buddhist and Russian Orthodox communities in Tajikistan, which as minorities, could be victims of discrimination.

27. He also asked whether special measures had been taken to preserve the languages of ethnic minorities such as Dari and Yagnobi. He took note with interest of the many statistics contained in one of the annexes to the periodic report and asked whether the State party had updated figures on the number of students by language of instruction at general education schools. He requested additional information on the Roma living in Tajikistan, particularly on whether they were settled or nomadic, whether settlement sites were made available to them and whether they had access to education in their mother tongue.

28. He invited the State party to consider the Committee's general recommendation No. 30 on discrimination against non-citizens, which included specific recommendations concerning stateless persons. Turning to the difficult situation of Tajiks living in neighbouring countries, he wished to know how Tajikistan planned to assist the numerous individuals who were in an irregular situation and often fell victim to exploitation and trafficking. He would appreciate unemployment statistics disaggregated by ethnic and national origin and by sex. He asked whether there were any people of African descent living in Tajikistan.

29. **Mr. Mengeliev** (Tajikistan) said that, while the Dari and Tajik languages belonged to the same language group, Tajik was the only official State language. The 2009 Act on the State language of the Republic of Tajikistan provided that all ethnic groups and peoples living in Tajikistan were entitled to use their mother tongue without restriction, and had established conditions for the free use, defence and development of the Badakhshan (Pamir) languages and the Yagnobi language. Badakhshan and Yagnobi were two extremely ancient languages that had been the subject of many studies and could be studied at school, but did not have the status of official languages.

30. The Roma of Tajikistan had originally hailed from India and had settled in the country during the era of the Silk Route. They had previously led a nomadic lifestyle but were now settled. They had identity documents and were on the civil register. Their way of life had not developed significantly and they mostly still survived by begging. There were no Buddhists in Tajikistan, despite the fact that Buddhist archaeological remains had been discovered in the country. Religious organizations that had been established before the 2009 Act had had to be re-registered in order to legally confirm their existence. There were 24 ethnic minority associations but there were no specific statistics available on them.

The meeting rose at 6 p.m.