

COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 37th SESSION (NEW YORK, 15 JANUARY TO 2 FEBRUARY 2007)

TAJIKISTAN (COMBINED INITIAL, 2ND AND 3RD PERIODIC REPORT)

Information Submitted to the Committee

On 26 January 2007, Tajikistan submitted its combined initial, 2nd and 3rd periodic reports¹ under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention), as well as responses² to the list of issues and questions³ raised by the Committee on the Elimination of Discrimination against Women (the Committee).

The report begins with a summary of Tajikistan's history since independence in 1991 and highlights poverty as the main challenge facing Tajikistan. Women are particularly impacted by the reduced standard of living resulting from the lengthy civil war and the transition toward a market economy and democracy. The report is open about successes, but does not attempt to hide problems such as polygamy and bigamy, which 'are not rare'. The report includes data and statistics, particularly regarding healthcare, the health of pregnant women and HIV. It does not include detailed information as to which ministries were involved in the preparation of the report and if non-governmental organisations (NGOs) were called on as was asked in the Committee's list of issues and questions. Similarly, the report does not include detail on the impact of its laws and action plans, such as the National Plan of Action for the Advancement of Women, the Presidential Decree of 2 December 1999 or the *Tajik Law on Guarantees of Equal Rights for Men and Women and Equal Opportunities in the Exercise of such Rights*. Again, the Committee asked for additional detail on these items in its list of issues and questions.

The written responses are similarly forthright about the lasting impact of the Soviet past on society, for example with family voting, but do not answer all of the questions and issues submitted by the Committee. For instance, Tajikistan does not fully answer the question regarding violence against women and so Committee members asked similar questions during the dialogue with the delegation. Other responses do not address the specific issues raised by the Committee. While the Committee focuses on the penalisation of clients of prostitution in one question, the State party's answer looks at the supply side of this problem. Some written responses openly highlight flaws in existing legislation, such as the lack of liability for offences committed in a domestic relationship.

A shadow report was provided to the Committee by a number of Tajik NGOs.⁴ The foreword to the shadow report praises Tajikistan's initiative in establishing relevant laws, but finds that effective implementation, monitoring and evaluation mechanisms are lacking. The report provides examples of what still needs to be done, including improving education and healthcare for women, increasing women's involvement in decision making and ending polygamy, domestic violence, trafficking and prostitution.

Themes and Issues

¹ <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CEDAW/C/TJK/1-3&Lang=E>.

² <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CEDAW/C/TJK/Q/3/Add.1&Lang=E>.

³ <http://daccessdds.un.org/doc/UNDOC/GEN/N06/467/33/PDF/N0646733.pdf?OpenElement>.

⁴ The shadow report had input from over 180 NGOs. It can be found at <http://www.iwra-wap.org/resources/pdf/Netherlands%20Shadow%20Report.pdf>.

Implementation

Article 10 of the Tajik Constitution states that when applicable international agreements, such as the Convention, conflict with domestic law, it is the international instruments that prevail. However, Committee member Zou found that the State party's report fails to provide information on the Convention's implementation since 1991 and asked what the Government was doing in this regard. The delegation's answer was slightly irrelevant in that it mentioned the creation of a training centre for young girls to improve their leadership skills, 13 crisis centres to deal with violence against women and three labour centres for women providing training.

Committee members Chutikul, Neubauer and Tavares da Silva asked who actually has responsibility for coordinating and evaluating Government activities for the Convention and expressed doubt about the sufficiency of the operational capacity of the Government. The delegation's answer to these questions was muddled. However, the Head of delegation stressed that some translations of the State party's report appeared to be incorrect, for example translating the word autonomous as independent, leading to an unclear picture of the relationship between various governmental bodies. This distinction is important because autonomous bodies report to the President, whereas independent bodies do not.

Trafficking

The shadow report indicates that Tajikistan is 'located between the sex markets of Eastern Asia and the Middle East' and is a major supplier of women. Committee members asked questions in the same vein, probing the delegation on measures to combat the trafficking phenomenon, such as cooperation with neighbouring states. Additionally, the Committee wanted to know what the Government was doing to assist victims of trafficking on their return to Tajikistan. The delegation indicated that a law was being drafted to prohibit trafficking in women and children and that a commission had been set up to deal with the problem. This approach would involve NGOs, which would provide training and raise awareness about the danger of trafficking. Committee member Pimentel said she believed that punishment was not always the most effective measure in combating crime, stressing that education and prevention were also important.

The Committee specifically focused on the case of 75 victims of trafficking who returned to Tajikistan from the United Arab Emirates (UAE) and asked about agreements between Tajikistan and the UAE. The delegation explained that there were no such bilateral agreements yet, but stressed that the Government was trying to provide assistance to the 75 victims who returned in 2005. This response did not provide the Committee with the detail it required, which was particularly worrying since it has been over a year since the victims' return.

Polygamy

Polygamy was a major focus of the dialogue. The shadow report indicates that religion is a large factor in the prevalence of polygamy in Tajikistan. The delegation on the other hand stated that the Government was doing 'some work' to eliminate polygamy, since there had been an increase in this practice in recent years. The delegation argued that women voluntarily enter these polygamous situations, underlining that the root causes of this practice, such as the civil war and dire poverty, needed to be understood and addressed better. Committee members asked specifically what, if any, rights subsequent wives can claim. The delegation assured them that if a man establishes paternity for a child, that child will be registered and receive benefits regardless of whether the child is from a first, second or third wife. However, the first wife is the only legal wife with any legal right to land or inheritance. The answer was unclear on what child custody rights women have when they leave a polygamous relationship. Following a question regarding prosecution of cases by the

Committee, the delegation explained that normally husbands are the only persons prosecuted by the courts, despite the Government's suggestion to include religious leaders performing polygamous marriages. Lastly, the Committee asked what the Government was doing to stop trans-border polygamous marriages where women go to the Gulf region, Russia or Afghanistan to marry, sometimes unaware that they will enter a polygamous relationship. The delegation stated that polygamy is discussed frequently in the media and that hopefully this serves to educate women to the possible dangers in trans-border relationships. It admitted the measures in place 'are not ideal', but argued that there was a will to stop this practice.

Prostitution

Again, the delegation explained that prostitution is often something that women fall into due to poor economic situations. Committee member Begum asked whether any criminal measures are used against the men who create the 'demand' side of prostitution, but the delegation did not really deal with this specific question. Instead it explained that as a general rule, administrative and not criminal measures are used against the prostitutes.

2005 Law on Gender Equality

Committee member Flinterman asked why the 2005 *Law on Gender Equality* did not contain a complaints procedure, adding that the law is declaratory, difficult to utilise in practice and lacks specificity. The delegation responded that the *Law on Citizenship* determines rights without regard to gender and so people could use, and have used, this law for complaints. Of the roughly 3000 complaints filed this year about half of them are filed by women according to the delegation.

Stereotypes

Patriarchal values and attitudes are deeply embedded in Tajik society according to the State party report and are slow to change. From this patriarchal mindset come persistent challenges in areas such as labour opportunities, perceptions of the household, marriage customs, voting and family planning. For example, very few women seek and utilise contraceptives, although there has been some improvement in this area since 1990. The stereotype that politics is not an area for women persists. This was illustrated by the delegation's response to questions about the low level of female participation in politics when it stated that 'most women do not want to get into politics due to lack of mental preparedness and women are hesitant to take responsibility'.

Family Voting

Committee member Gaspard asked whether laws on voting rights have been disseminated to ethnic groups and in rural areas to help reduce the tradition of family voting. The delegation acknowledged the continued existence of family voting, but asked for the Committee to 'have some sympathy for us'. It claimed that sometimes both children and women vote on behalf of the family and that one should not conclude that men 'drag the women along to vote'. The delegation explained the history of family voting saying that it was a 'fact of life of Soviet psychology' and indicated that the Government was trying to educate the population on this issue.

Employment

Committee members were concerned about women's employment opportunities. Confirming these worries, the delegation stated that women, particularly older women, are the least likely to seek jobs within the new market economy, instead choosing traditionally low-paying jobs in education, agriculture and health care.

When asked about the use of quotas to advance the place of women in the workplace, the delegation responded by saying that it was a complex question and that industrial countries themselves were conflicted about this issue. Following this response, Committee member Schöpp-Schilling commented that it appeared that the delegation was not quite up to date on the issue of quotas. Finally, the delegation stated that it would suggest that the Government reconsider the use of quotas.

Violence against Women

The report indicates that violence against women is a 'latent' crime in Tajikistan and that official data does not adequately reflect its actual extent since women often do not report such crimes. Committee members asked whether legislation exists to provide social and legal protections to victims of domestic violence. The delegation responded that it was unclear when the domestic violence bill would be adopted. The delegation recognised that in addition to penal sanctions, the Government needed to increase the standard of living for all Tajiks so that they can live independently. The delegation seemed agitated at questions regarding domestic violence in polygamous marriages. It emphasised that all women, even if second or third wives, are guaranteed their rights under the Tajik Constitution.

Conclusions and Next Steps

In all its written submissions and answers during the dialogue, the delegation was frank about the shortcomings of the laws and protection mechanisms in place in Tajikistan and how the reality is much different from what should exist in theory as a result of these laws and protections. The delegation discussed problems in a historical context that helped explain why many challenges remain. For example, 'traditionalism...the abandonment of the socialist concept of social structure...the transition to the market economy, the civil war and its consequences' left the Tajik society with many challenges to overcome in order for the protections of its laws to become reality. However, at times the delegation did not seem interested in the dialogue and answers appeared to be given to placate the Committee members. For example, toward the end of the day, some delegation members were looking at personal photos on their laptop computers in full view of the Committee and observers. Also, when Committee member Shelton offered practical suggestions that worked in her country to combat polygamy the delegation did not appear to be listening. Other times, possibly due to language difficulties, the delegation failed to answer the questions asked by the Committee, instead providing lengthy and detailed but irrelevant answers in disregard of the Chairperson's request for concise answers. The dialogue subsequently ran short on time and the delegation was unable to substantively address many of the questions in the later portion of the day.

The Concluding Comments⁵ asked that Tajikistan do more to reverse and eliminate stereotypes and make a concerted effort to educate women of their rights. Hopefully this education would result in fewer women falling victim to instances of domestic violence and trafficking schemes. Then, the Government must develop improved measures to assist victims of domestic violence and trafficking, as was also noted by the Human Rights Committee when it reviewed Tajikistan's initial report during its 84th session in 2005. The Committee took note of the numerous times that the poor economic situation of women was detrimental to their health and advancement asking that Tajikistan take necessary measures to address the economic situation of women. The Committee also urged the use of quotas and temporary special measures to aid women's advancement and

⁵ <http://www.un.org/womenwatch/daw/cedaw/cedaw37/concludingcommentsAU/Tajikistan.pdf>.

involvement in spheres such as politics. The Committee's Concluding Comments end by requesting that Tajikistan submit its combined 4th and 5th periodic reports in 2010 and ratify the Optional Protocol to the Convention.